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TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1947

No. 541

FRANCIS JOSEPH GRYGER, PETITIONER,

vs.

C. J. BURKE, WARDEN, EASTERN STATE PENITENTIARY, PHILADELPHIA, PENNSYLVANIA

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF THE COMMONWEALTH OF PENNSYLVANIA

PETITION FOR CERTIORARI FILED JULY 30, 1947.

CERTIORARI GRANTED JANUARY 19, 1948.

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{fols. 1-2} **IN SUPREME COURT OF PENNSYLVANIA**

PETITION FOR WRIT OF HABEAS CORPUS—Filed February 23, 1945

The Prothonotary, Supreme Court of Pennsylvania, City Hall, Philadelphia, Pa.

GENTLEMEN, DEAR SIRS:

I am an Inmate of the Eastern State Penitentiary. My name is Francis Grygier. Number D-8017.

On July 26th, 1943, I arrived at this Institution on a charge of "Receiving Stolen Goods." I was sentenced by the Honorable Harry S. McDevitt to a term of not less than five years nor more than ten years to start after the expiration of my unexpired parole sentence which was imposed on April 28th, 1937.

After being confined in this Institution for Six 6 months. I regret to say, that I, Francis Grygier, with another inmate D 7320, was taken to the Morristown Court on a charge of "Attempted Prison Breach." Both I and the inmate D 7320 was sentenced to another term of not less than one year nor more than two years to start after the unexpired sentence's imposed on April 28th, 1937, and on July 26th, 1943.

Gentelmen: I wish to make it clear that what I'm about to say, took place, One week after the Prison Breach sentence was imposed on me. Yes, just One week after I was sentenced by the Morristown Court. Honorable Harry S. McDevitt of the Court of Quarter Sessions of the Philadelphia County brought me before him on another charge of Burglary. Agg. A. & B. before passing sentence on me. These are the Honorable Harry S. McDevitt words personally. You tried to get away from the Penitentiary a couple of weeks ago, didn't you? You didn't get far, did you? I sentence you to five to ten years, and I am going to have you indicted for a fourth offender, and give you life.

[fol. 3] Gentelmen: Those were the identical words in which the Honorable Harry S. McDevitt said to me in Court. But it must be understood that the Honorable Harry S. McDevitt did not imposed a life sentence on me.

Instead of that: He imposed a five to ten year sentence to start after the expiration of my sentence's now serving.

After returning to the Institution with this new five to ten year sentence. A few months later I was served with a Copy of an "General Jail Delivery." Now, all this has been done after I was already serving Four, 4 different sentence's.

One of the sentence's being a "Parole Violator."

The other a five to ten year sentence for "Receiving Stolen Goods."

The other a One to Two year sentence for "Attempted Prison Breach."

The other a five to ten year sentence for Burglary. Agg. A. & B.

It was not until after I was already in this Institution for Sixteen 16 months, that I was taken to court on this "Penal Code of 1939, June 24th, P. L. 872" and given an life sentence for being a fourth offender.

This, I do not base my plea on. But, what I am trying to point out is, That I Did Not Have a Fair Trial.

First: I did not have an Counsel, or was I asked rather or not I wanted a counsel.

Second: I did not make any Plea, what so ever.

Third: There were No Witnesses to prove that I am a Fourth Offender. The Court had No Right to except my proof of identity.

Fourth: I believe that any person on trial for his life, should, Should have a Jury Trial to prove rather or not he is guilty as charged.

Sir: I can frankly say that none of the above mention has been done at my trial. I don't cla-me to know very much about your laws. But I do firmly believe in Our Con-
[fols. 4-5] stitution. The above things that I have mention to you are in the 5th, and 6th, Article of the Bill of Rights. They read as following:

Article #5. No person shall be held to answer for a Capital or other infamous crime unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger; nor shall any person be subject for the same offense to be put in jeopardy of life or limb; Nor Shall Be Compelled in Any Criminal Case to Be a Witness Against Himself, nor be deprived of

life, liberty, or property, without due process of law, nor shall private property be taken for public use without just compensation.

Article #6. In all criminal prosecutions, the accused shall enjoy the rights to a speedy and public trial, by an Impartial Jury of the State and District Wherein the Crime Shall Have Been Committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; To Be Confronted With the Witnesses Against Him; to have compulsory process for obtaining witnesses in his favor, And to Have the Assistance of Counsel for His Defense.

Gentlemen: What I have UNDERLINED, is what has, "Not Been Done," at my trial. I am enclosing the minutes of my trial. Hoping that you will consider this matter, and hoping that my life sentence can and will be nullified.

Thanking you for any consideration that you may give me. And apologizing for troubling you. I am

Yours faithfully, Francis Jos. Grygier.

[File endorsement omitted.]

[fol. 6] IN THE SUPREME COURT OF PENNSYLVANIA, EASTERN DISTRICT

266. Miscellaneous Docket No. 8

COMMONWEALTH OF PENNSYLVANIA

vs.

EDWARD GRYGIER, et al.

DOCKET ENTRIES

February 23, 1945, Petition of Francis Joseph Grygier for Writ of Habeas Corpus filed.

Francis Joseph Grygier.

And now, Mar. 19, 1945 the within petition is denied without prejudice.

Per Curiam.

[fol. 7] IN THE SUPREME COURT OF PENNSYLVANIA, PHILADELPHIA, PENNSYLVANIA

FRANCIS GRYGIER, Relator,

vs.

HERBERT SMITH, Warden, Eastern State Penitentiary, et al., In Supra, Defendants

PETITION

For the Writ of Habeas Corpus (ad Inquirendum) to Inquire Into the Legality of a Life Sentence Imposed by the Honorable Joseph L. Kun, in the Court of Quarter Sessions, November 27, 1944, in the County of Philadelphia, Pennsylvania. The Aforesaid Sentence Was Imposed Without Your Petitioner Being Represented by Counsel, Without Jury Trial, or a Verdict Being Rendered.

Submitter by Francis Grygier, Petitioner.

[fols. 8-9] *Duly sworn to by Francis Grygier. Jurat omitted in printing.*

[fol. 10] To the Honorable Justices of the Supreme Court of Pennsylvania

FRANCIS GRYGIER, Relator,

vs.

HERBERT SMITH, Warden, Eastern State Penitentiary, et al., In Supra, Defendants.

PETITION

For the Writ of Habeas Corpus (ad. Inquirendum) to the Honorable Justices of the Supreme Court: Comes now your petitioner, Francis Grygier, citizen of these United States and a resident of the City and County of Philadelphia, and State of Pennsylvania, who now relates to the Honorable Court:

Record of Facts

That, on the 26th day of July 1943, your petitioner appeared as a defendant in the Court of Quarter Sessions, July Sessions, 1943, Philadelphia County, the Honorable Harry

S. McDevitt, Justice of said Court in and for the said County, presiding, in answer to the charge as contained in indictment No[illegible] and 252, charging me with the crime or crimes of "Burglary, Receiving Stolen Goods, for which crime or crimes after pleading Guilty to Receiving Stolen Goods, your petitioner was sentenced to a term of imprisonment, by the above named justice of the aforementioned Court of "Not less than five (5) years nor more than ten [fol. 11] (10) years in the Eastern State Penitentiary, Philadelphia, Pennsylvania," to which place of imprisonment your petitioner was committed in accordance with the due process of law

"B"

That, on the 4th day of February 1944, your petitioner was arraigned before the Common Pleas Court of Montgomery, Norristown, Pennsylvania in answer to the charge of "Attempted Prison Breach." After pleading guilty to the aforesaid charge, your petitioner was sentenced by the Honorable George R. Corson of the aforementioned Court to a term of Not less than one (1) year nor more than two (2) years in the Eastern State Penitentiary, to begin at the expiration of sentence imposed on April 28th 1937 and July 25th, 1943"

"C"

That, on the 25th day of February 1944, your petitioner appeared as a defendant in the Court of Quarter Session, February Sessions, 1944, Philadelphia County, Philadelphia, Pennsylvania. The Honorable Harry S. McDevitt, Justice of the said Court in and for the said County, presiding, in answer to the charge as contained in indictments No. 461, and 462 of June Sessions 1943, Charging p[illegible]ioner with the crime of "Burglary, and Aggravated Assault and Battery." For which crime and charges, after being convicted of "Burglary," your petitioner was arraigned before the Court by the above named Justice of the aforementioned [fol. 12] Court for sentence. His Honor made the following statement, viz: "You tried to get over the front wall of the penitentiary a couple of weeks ago, didn't you? Didn't get far, did you? At the expiration of what yo[illegible]are doing, do five to ten more. And I am going to have you indicted for a fourth offender, and give you life."

"D"

That, on the 1st day of May 1944, your petitioner received the following notification

IN THE COURT OF OYER AND TERMINER AND GENERAL JAIL DELIVERY AND QUARTER SESSIONS OF THE PEACE FOR THE COUNTY OF PHILADELPHIA

COMMONWEALTH OF PENNSYLVANIA

vs.

EDWARD GRYGIER, Alias FRANK JACKSON, Alias JOSEPH McGEE, Alias Francis Geyger, Alias Francis Grygeia, Alias Francis Guger

Information Relative to Indictment as of June Sessions, 1943, No. 461

Philadelphia, May 1st, 1944.

To: Edward Grygier, Alias: Frank Jackson, Alias: Joseph McGee, Alias: Francis Geyger, Alias: Francis Grygeia, Alias: Francis Guger, above named defendant.

SIR:

You are hereby notified that on May 1st, 1944, the District Attorney of Philadelphia County duly filed in the Court of Oyer and Terminer and General Jail Delivery and Quarter Sessions of the Peace of said County, on information required by law to be filed by him under the provisions of an Act of Assembly of the Commonwealth of Pennsylvania, Entitled

"The Penal Code of 1939, June 24th, P. L. 872" accusing you of having been previously convicted of certain other Crimes and Offenses as charged in said information, and [fol. 13] included in said Act of Assembly, authorizing the senten-ing of persons convicted of a second or subsequent offense of certain crimes to additional prison terms and to imprisonment for life; and in pursuance of the provisions of said Act of Assembly, a true and correct copy of said Information is handed to you and served upon you.

Signed by: John H. Maurer, District Attorney, Philadelphia County.

IN THE COURT OF OYER AND TERMINER AND GENERAL JAIL DELIVERY AND QUARTER SESSIONS OF THE PEACE FOR THE COUNTY OF PHILADELPHIA

COUNTY OF PHILADELPHIA, S. S. THE COMMONWEALTH OF PENNSYLVANIA

vs.

EDWARD GRYGIER, Alias: Frank Jackson, Alias: Joseph McGee, Alias: Francis Geyger, Alias: Francis Grygeia, Alias: Francis Guger

Information Relative to Indictment as of June Sessions, 1943, No. 461

1. Be it remembered by this information that I, John H. Maurer, District Attorney of the County of Philadelphia, State of Pennsylvania, in pursuance of an Act of Assembly of the said Commonwealth, entitled, "The Penal Code of 1939, June 24th, P. L. 872", which by section 1108 provides for punishment for second and subsequent convictions, do accuse Edward Grygier, alias Frank Jackson, alias Joseph McGee, alias Francis Geyger, alias [fol. 14] Francis Grygeia, alias Francis Guger, above named, who under and by the name of Francis Guger, within two years last past, to wit, on February 25, 1944, before the Honorable Harry S. McDevitt, a Judge of the Court of Oyer and Terminer and General Jail Delivery of the County of Philadelphia, was duly convicted of the crime of Burglary perpetrated upon the dwelling of one Raymond Wilde on or about June 20, 1943, charged against him in a certain indictment theretofore duly presented and found true at a Grand Inquest of the said Commonwealth, inquiring for said County of Philadelphia as of June sessions, 1943, No. 461, as in said indictment particularly set forth, upon which verdict and judgment was duly entered on the 25th day of February, A. D. 1944, that the said defendant undergo an imprisonment in the Eastern State Penitentiary for a term of not less than five nor more than ten years after the expiration of a sentence he was then serving, pursuant to which judgment he is now there incarcerated of having been previously convicted and

sentenced of certain other crimes three or more times, to wit, the crimes of robbery and burglary, that is to say:

2. That the said defendant under the name of Edward Grygier on March 17th, 1927, was convicted in the Circuit Court of Harford County, Maryland, of Burglary, and sentenced to serve one year at the Maryland House of Correction, and the defendant did undergo an imprisonment in the said Maryland House of Correction from March 17th, 1927 until January 17th, 1928, his discharge therefrom being absolute.

[fol. 15] 3. That the said defendant at Philadelphia County, under the name of Edward Grygier, charged with burglary of the dwelling of Walter Allen in an indictment duly presented and found true by the Grand Jury of Philadelphia County as of April Sessions, 1929, No. 1107, on which he was convicted of said crime as therein set forth on April 23, 1929, upon which verdict, judgement was duly entered the same day by the Honorable Horace Stern, a judge of said Court, that the defendant undergo imprisonment in Huntingdon Reformatory, in pursuance to which the defendant was confined until September 20, 1930.

4. That the said defendant at Philadelphia County, under the name of Frank Jackson, alias Grygier, and in an indictment duly presented and found true by the Grand Jury of Philadelphia County as of November Sessions 1930, No. 1679, was charged with robbery, being armed with an offensive weapon with intent to rob one Paul Grotzinger, and was duly convicted (plead guilty) of said crime as therein set forth on November 28, 1930, upon which verdict (plea) judgement was duly entered the same day by the Honorable Otto R. Heiligman, a judge of said Court, that the defendant undergo an imprisonment in the Eastern State Penitentiary of not less than five nor more than ten years in pursuance of which the defendant was there confined until May 28th, 1936 when he was discharged on parole.

5. That the said defendant at Philadelphia County under the name of Edward Grygier, alias Frank Jackson, alias [fol. 16] Joseph McGee, in an indictment duly presented and found true by the Grand Jury of Philadelphia County as of April Sessions, 1937, No. 1046, charging said defendant with burglary, entering in the night without breaking with

intent to commit a felony, and receiving stolen goods of one Edward O'Neill, on April 28th, 1937, was duly convicted (plead guilty) of receiving stolen goods, and upon which verdict (plea) judgment was duly entered on the same day by the Honorable Raymond MacNeille, a judge of said Court, that the defendant undergo an imprisonment of not less than eighteen months nor more than three years in the Eastern State Penitentiary at the expiration of the unexpired parole sentence impose- on November 28, 1930 on Bill No. 1679 of November Sessions, 1930, and that he was confined there until April 29, 1943, when he was paroled.

Dated: Philadelphia, Pennsylvania, the first day of May, A. D. 1944.

John H. Maurer, District Attorney of Philadelphia, County.

COMMONWEALTH OF PENNSYLVANIA,
County of Philadelphia, ss:

John H. Maurer, being duly sworn according to law, deposes and says that he is the District Attorney of Philadelphia County and that the facts set forth in the foregoing Information are true and correct to the best of his knowledge, information and belief.

John H. Maurer.

Sworn and subscribed to before me this 1st day of May, A. D. 1944. Ewd. H. White, Jr., Notary Public.

[fol. 17] "E"

That,

On the 27th day of November 1944, your petitioner appeared as a defendant in the Court of Quarter Sessions, November Sessions 1944- Philadelphia County, Philadelphia, Pennsylvania, the Honorable Joseph L. Kun, justice of the said Court in and for the said County, presiding, in answer to the charge as contained in indictment No. 461 of June Sessions, 1943. And, in pursuance of an Act of Assembly of the said Commonwealth, entitled, "The Penal Code of 1939, June 24th, P. L. 872". On which indictment, and despite the fact that your petitioner was denied his Constitutional rights, To Wit:

(1) Your petitioner was not represented by Counsel.

(2) The Court did not ask petitioner if he wished to be presented by counsel.

(3) There were No Witnesses in Court to Prove that I was a Fourth Offender.

(4) The Court did not ask your petitioner if he Pleaded Guilty, or Not Guilty.

(5) The Court did not ask petitioner if he wanted a Jury Trial.

(6) There was no Verdict Rendered.

Notwithstanding the above allegations, the above named Justice of the aforementioned Court decreed as follows: "I don't see any point in further discussion because the case seems very clear and it becomes my duty and I now pronounce sentence: "That you undergo life imprisonment in the Eastern State Penitentiary, and the sentence of [fol. 18] February 25th, 1944 is vacated in accordance with the Act of Assembly when sentence is life imprisonment."

AVERMENTS AND ALLEGATIONS

That your petitioner avers that the tried Court procedure, and the sentence imposed November 27, 1944, was unconstitutional, due to the fact that petitioner was tried for the said charge on the 25th day of February 1944, before the Honorable Harry S. McDevitt, justice of said Court in and for the said County, and after conviction, your petitioner was sentenced by the above named Justice of the aforementioned Court to a term of five (5) to ten (10) years in the Eastern State Penitentiary. Therefore your petitioner contends that he has been twice tried for the same offense. Furthermore this is in direct contravention of Article 5, of the United States Constitution, which states: "Nor Shall any Person be Subject for the Same Offense to be Twice put in Jeopardy of Life or Limb."

Your petitioner further avers and contends:

That,

By the Sixth Amendment of the Federal Constitution, "a person charged with crime is guaranteed the right to have the assistance of Counsel for his defense."

> In all criminal prosecutions, the accused shall enjoy the right to have . . . the assistance of Counsel for his defense."

For confirmation see:

[fol. 19] Mooney v. Johnson, 85 L. Ed. 517
Mooney v. Holohan
Walker v. Johnson

Wherefore your petitioner now alleges and contends:

That, in accordance with the Statutes of the Commonwealth of Pennsylvania, the Court erred in recommitting your petitioner to the Eastern State Penitentiary, under "The Penal Code of 1939, June 24th, P. L. 872." *In Com. v. Dudick*, 88 Pa. Super. 87. Defendant was sentenced 8 3 1925 to two (2) years., at Allegheny County Workhouse. 1 2 1926 now sentence was imposed. Held: Sentence of 8 3 1925 still in force. A sentence cannot be changed after term.

The Court cannot increase a sentence even during the term after the accused has already entered upon the service of his sentence.

Butler v. Hill, 11 Northum, 370.
1588 C. J. S.
1589 C. J. S.
Com. v. P. R. R., 41 Pa. Super. 29.

When accused has been convicted, sentenced, and delivered to the Warden or Superintendent of a Prison or Reformatory under a mittimus, execution of the sentence is said to have began and the trial Court is without jurisdiction over the case.

[fol. 20] Hynes v. U. S. C. C. A. Ill., 35 Fed. (2d) 734.
People ex rel. Swanson v. Williams, 185 N. E. 198, 325 Ill. 227.

When accused has entered on the execution of a sentence and the Court erroneously renders a second judgment which in terms sets aside the first, the former remains in full force and effect, even though the second judgment is void

Price v. McGuiness, C. C. A. N. J., 269 Fed. 977.

Your petitioner verily shows to the Honorable Justices of the Supreme Court of Pennsylvania:

That, he had filed a petition before the Supreme Court of Pennsylvania, in regards to the foregoing technicalities,

and hereto presents a duplic*ta*- of the letter petitioner received in answer to same. Viz and to wit:

Francis Grygier, No. D-8017, Eastern State Penitentiary, Philadelphia, Pennsylvania.

In re: Com. ex rel. Grygier vs. Smith, No. 266 Misc. Docket No. 8

Dear Sir:

The following order has been made on the petition for writ of habeas corpus filed in the above entitled matter:

"And now, Mar. 19, 1945, the within petition is denied without prejudice.

Per Curiam."

Yours very truly, Edna Mixsell, Deputy Prothonotary.

[fols. 21-23] Wherefore your petitioner now contends:

That, by virtue of all the above and foregoing allegations as herein related, he is being held in illegal restraint and detention by the authorities of the Eastern State Penitentiary, Philadelphia, Pennsylvania, and that he is being deprived of his lawful liberty in direct contravention of the United States Constitution. And: Now your petitioner prays:

That a writ of habeas corpus shall be made to issue upon herein named defendants, et al., so that the injustices herein legally complained of may be adjudicated in accordance with the Statutes of the United States Constitution, which so provides.

To All of the Above Your Petitioner Shall Forever Pray:

Francis Grygier, Petitioner-in-Person.

Sworn and subscribed to before me this 3rd day of September, Our Lord, 1945. Walter Tees, Notary Public. My Commission expires Jan. 2, 1949. (Seal.)

[fols. 24-25] IN THE SUPREME COURT OF PENNSYLVANIA, EASTERN DISTRICT

No. 301. Miscellaneous Docket No. 8. Petition for Writ of Habeas Corpus

COMMONWEALTH ex rel. FRANCIS GRYGIER

v.

HERBERT SMITH, Warden

OPINION OF THE COURT

Per CURIAM:

Even assuming for present purposes the verity of the petitioner's averments as well as the merit of his legal contention that the sentence imposed on him by the Court of Quarter Sessions of Philadelphia County on November 27, 1944, as a fourth offender, was in error, his petition for a writ of habeas corpus to relieve him from that sentence is premature. He is at present confined in the Eastern Penitentiary under prior sentences which are not attacked and which will not expire at the earliest until Febr y 25, 1949. He is therefore now validly restrained of his liberty. Consequently his petition for habeas corpus must be denied. See *Commonwealth ex rel. Toliver v. Ashe, Warden*, 336 Pa. 206, 208, 8 A. 2d 541, cert. den., 311 U. S. 646; *Commonwealth ex rel. Lewis v. Ashe, Warden*, 335 Pa. 575, 576, 7 A. 2d 296, cert. den., 308 U. S. 596; also *Commonwealth ex rel. Sloan v. Ashe, Warden*, 133 Pa. Superior Ct. 32, 38, 1 A. 2d 788.

[File endorsement omitted.]

[fol. 26] IN SUPREME COURT OF PENNSYLVANIA

LETTER FROM PETITIONER

October 18th, 1945.

Supreme Court of Pennsylvania, Eastern District, Philadelphia, Pennsylvania.

To The Prothonotary:

DEAR SIR:

In reply to the petition of Francis Grygier v. Herbert Smith, Warden. No. 301. Miscellaneous Docket No. 8.

The Honorable Justices of the Supreme Court stated:

That I, Petitioner, "Is at present confined in the Eastern State Penitentiary under prior sentences which are not attacked and which will not expire at the earliest until February 25, 1949. He is therefore now validly restrained of his liberty. Consequently his petition for hab-as corpus must be denied."

I wish to inform the Honorable Court. "That I am *Not at present confined under prior sentences.* "All previous sentences were *"Vacated"* in Accordance With the Provisions of the Act of Assembly *When Sentence is Life Imprisonment.*

I am, And have been, Serving a Life Sentence since *November 27, 1944.*

The Honorable Justices Joseph L. Kun. "During the trial." Stated that the Life Sentence was to start *"Immediately" November 27, 1944.* And as for the previous sentences: He also stated that they were *Vacated* in Accor-ance With the Provisions of the Act of Assembly *When Sentence is Life Imprisonment.* You will see the *Statement of Honorable Joseph L. Kun,* in the *Testimony* in which I am forwarding to the Court, See *Bottom of page 21 in testimony:*—Honor. The Court:

Also see "Information" Relative to Indictment as of June Sessions, 1943, No. 461. On *Back of Page* of *Information,* you will see the sentence of your petitioner, Also the sentence 2-25-44 is *Vacated.*

[fol. 27] So therefore what I have just stated: I believe that the Honorable Court should *"Re-Open" my case for re-consideration.*

I've tried my very best to receive a *Certified copy* of my *Committment* along with a *Certified copy* of my *Indictment* of the *Original Life Sentence in which I am now serving.* After sending for them by mail: I received a *Wrong Set* of papers in which I did *Not ask for.* Finally I have gotten in-touch with the Prothonotary George C. Richards of the Court of Quarter Sessions, Philadelphia, Pennsylvania. He tried to have me believe that the papers in which he mailed to me were my Original Committment and Indictment of my Life Sentence. When I told him that they were Not the papers in which for, that I wanted the *Original Certified* Copy of Committment and Indictment *in which like the one's the Court had issue to the Institution upon my arrival.* When I explained this matter to him *clearly.* He stated that there was No Way What-so-ever he could give me a Copy of my Committment and Indictment as I've asked for. Not knowing his reason for this, I left the matter as it was. Immediately I went and saw the Deputy Warden of this Institution and explained the matter to him. I've asked the Deputy Warden if he would kindly let me have a Photostat Copy of the *Original* Certified Committment of my Life Sentence in which I am now serving at present. In close I am forwarding the *Photostat Copy* of the *Institution's Original Certified Life Sentence* to the Honorable Justices of the Supreme Court, to shows that I am, And have been, Serving a Life Sentence *since November 27, 1944.*

Now that I have made myself clear. I only hope and pray to God, that the Honorable Justices of the Supreme Court, Will Re-Open my case for re-consideration, so that my Life Sentence can be Nullified.

In close you will find Check for $1.00. One dollar to cover the cost of the filing fee.

Thanking you, And apologizing for troubling you

Yours faithfully, Francis Grygier.

[fol. 28] IN THE SUPREME COURT OF PENNSYLVANIA, PHILADELPHIA, PENNSYLVANIA

FRANCIS GRYGIER, Relator,

vs.

HERBERT SMITH, Warden, Eastern State Penitentiary, et al., In Supra, Defendants

PETITION FOR RECONSIDERATION—Filed October 26, 1945

Humbly do I implore the Court to "*Reconsider*" my Writ of Habeas Corpus. Due to the fact that petitioner has failed in presenting a Certified Copy of his Commitment and Indictment to the Honorable Court.

And Now,

To inquire into the Legality of a Life Sentence that was imposed by the Honorable Joseph L. Kun, In the Court of Quarter Sessions, November 27, 1944, In the County of Philadelphia, Pennsylvania.

The aforesaid Life Sentence was imposed on November 27, 1944 *To Start, "Immediately", November 27, 1944.*

As for my previous sentences, from of, February 25, 1944. They were, "*Vacated*" in Accor-ance With the Provisions of the Act of Assembly *When Sentence is Life Imprisonment.*

2. Your petitioner was Not Represented by *Counsel*, nor did the Court ask your petitioner if he wished to be represented.

3. There were No Witnesses in Court, No Jury Trial, nor a Verdict Being Rendered.

Submitter, Francis Grygier, Petitioner.

[fols. 29-30] *Duly sworn to by Francis Grygier. Jurat omitted in printing.*

[fol. 31] To the Honorable Justices of the Supreme Court of Pennsylvania

Francis Grygier, Relator,

vs.

Herbert Smith, Warden, Eastern State Penitentiary, et al., In Supra, Defendants

Petition

"To *Reconsider,*" Writ of Habeas Corpus (Ad. Inquirendum)

To the Honorable Justices of the Supreme Court:

Comes Now Your Petitioner, Francis Grygier, citizen of these United States and a resident of the City and County of Philadelphia, and State of Pennsylvania, who now relates to the Honorable Court:

Record of Facts

On the 27th day of November 1944, your petitioner appeared as a defendant in the Court of Quarter Sessions, November Sessions—1944, Philadelphia County, The Honorable Joseph L. Kun, Justice of said Court in and for the said County, presiding, in answer to the charge as contained in indictment No. 461, of June Sessions, 1943. And in pursuance of an Act Assembly of the said Commonwealth, entitled, "The Penal Code of 1939, June. 24th, P. L. 872." On which indictment, and despite the fact that your petitioner was denied his Constitutional Rights, To Wit:

(1) Your petitioner was *Not Represented by Counsel,*

(2) The Court did Not ask petitioner if he wished to be represented by Counsel.

[fol. 32] (3) There were No Witnesses in Court to Prove that petitioner was a Fourth Offender.

(4) The Court did Not ask petitioner if he Pleaded guilty, or Not guilty.

(5) The Court did Not ask petitioner if he wanted a Jury Trial.

(6) There Was No Verdict Rendered.

Notwithstanding the above allegations, the above named Judge of the aforementioned Court decreed as follows: "I don't see any point in further discussion because the case seems very clear and it becomes my duty and I now pronounce sentence: "That You Undergo Life Imprisonment In The Eastern State Penitentiary, And the Sentence from the February 25th, 1944 *is Vacated* in Accordance with the Provisions of the Act of Assembly *when Sentence is Life Imprisonment.*"

Averments and Allegations

Your petitioner avers that the trial Court procedure, and the sentence imposed November 27, 1944, was unconstitutional, due to the fact that petitioner was tried for the said charge on the 25th day of February 1944, before the Honorable Harry S. McDevitt, justice of the said Court in and for the said County, And after conviction, your petitioner was sentenced to a term of five (5) to ten (10) years in the Eastern State Penitentiary. Therefore your petitioner contends that he has been Twice tried for the same offense. Furthermore this is in direct contravention of Article 5, of the United States Constitution, which states: "Nor Shall any Person be Twice Put in Jeopardy of Life or Limb."

Your petitioner further avers and contends:

[fol. 33] By the Sixth Amendment of the Federal Constitution, "a person charge- with crime is Guaranteed the right to have the Assistance of *Counsel for his defense.*"

In all Criminal prosecutions, the Accused shall enjoy the right to have . . . the Assistance of Counsel for his defense.

Your petitioner further avers and contends: That, on March 13, 1940. The Superior Court of Pennsylvania has granted an Writ of Habeas Corpus and an *Outright discharge to Otto Sheltz*, a former inmate of the Eastern State Penitentiary. The discharge was granted to Otto Sheltz due to the fact that Otto Sheltz was *Not Represented by Counsel.*

("From One of Our City Newspapers")

Judge Askes State Public Defender March 13, 1940.

Judge G. Gorden, calls for action at Special Sessions in granting the Re-Trials.

In a sweeping opinion handed down by Judge James G. Gorden, Jr.; today the jurist points out that recently Appellate Decisions have created such a departure in the Application of Constitutional Rights, that a state defender is necessary in Penna.

Judge G. Gorden, chairman of the committee on criminal business of the board of Judges of Common Pleas Courts; said that the new legal situation creates such a serious problem that Governor James should include in his call for a Special Session legislation creating and financing the State Public Defender. The Judges recommendation followed the reluctant granting of a new trial to Three men convicted of larceny and receiving stolen goods in connection with the hold-up of a truck in the northeast.

One of the defendants was represented by Lemuel R. [fol. 34] Schofield, but the two co-defendants were not represented and did not ask for Counsel. Judge Gorden found that the men were properly convicted, but of his own motion granted a New trial to All Three under a week old ruling of the Superior Court, Which held it is the *Duty* and the Obligation of a Criminal Court *to Appoint Counsel for every defendant.* The Superior Court granted a Writ of Habeas Corpus, and an Outright discharge to Otto Sheltz, who had served Nine years of a 23 to 46 year term, after being convicted Without benefit of Counsel. The Court decision pointed out it had been the practice in the past to permit the trial of defendants without Lawyers, if they Specifically Requested Counsel, but under the New Decision it becomes the *Courts Duty to See That Lawyers Are Appointed for the Defense,*—"*and That Failure to do so Constitutes a Violation of Constitutional Rights.*" Judge G. Gorden pointed out every defendant Must be Supplied with Counsel, unless he *Definitely States* that he does *Not* wish to be *Represented.*

Your petitioner verily shows to the Honorable Justices of the Supreme Court of Pennsylvania: That, he had filed a petition before the Supreme Court of Pennsylvania in regards to the foregoing technicalities, and hereto presents a duplicate of the letter petitioner received in answer to same. Viz and to Wit:

IN THE SUPREME COURT OF PENNSYLVANIA, EASTERN DISTRICT

No. 301. Miscellaneous Docket No. 8

Petition for Writ of Habeas Corpus

COMMONWEALTH ex rel. FRANCIS GRYGIER

v.

HERBERT SMITH, Warden

[fol. 35] OPINION OF THE COURT

Even assuming for present purposes the verity of the petitioner's averments as well as the merit of his legal contention that the sentence imposed on him by the Court of Quarter Sessions of Philadelphia County on November 27, 1944, as a fourth offender, was in error, his petition for a writ of habeas corpus to relieve him from that sentence is premature. He is at present confined in the Eastern Penitentiary under prior sentences which are not attacked and which will not expire at the earliest until February 25, 1949. He is therefore now validly restrained of his liberty. Consequently his petition for habeas corpus must be denied. See *Commonwealth ex rel. Toliver v. Ashe, Warden*, 336 Pa. 206, 208, 8 A. 2d 541, cert. den., 311 U. S. 646; *Commonwealth ex rel. Lewis v. Ashe*, Warden, 335 Pa. 575, 576, 7 A. 2d 296, cert. den., 308 U. S. 596; also *Commonwealth* ex rel. Sloan v. Ashe, Warden, 133 Pa. Superior Ct. 32, 38, 1 A. 2d 788.

Per Curiam.

Statement

On No. 301 Miscellaneous Docket No. 8. "The Honorable Court states that petitioner is at Present Confined in the Eastern State Penitentiary under Prior Sentences Which Are Not Attacked and Which Will Not Expire at the Earliest Until February 25, 1949."

Record of Facts

Petitioner is *Not at present*, confined under prior sentences. It must be understood that *I am, And have been, serving a Life Sentence since November 27, 1944*, as for the Previous Sentences: They were All *Vacated* in Accord-

ance With the Provisions of the Act of Assembly *When Sentence Is Life Imprisonment.*

A Certified Copy of my Indictment and Commitment is now being presented to the Court to show that I am, And [fols. 36-39] have been, serving a Life Sentence since November 27, 1944. So therefore I believe that I am being held in illegal restraint and detention by the Authorities of the Eastern State Penitentiary, Philadelphia, Pennsylvania, And that I am being deprived of my lawful liberty in direct Contravention of the United States Constitution, And:— Now Your Petitioner Prays:

That a Writ of Habeas Corpus shall be made to issue upon herein named defendants, et al., so that the injustices herein legally complained of may be adjudicated in accordance with the Statutes of the United St..tes Constitution, which so provides.

To All of the Above Your Petitioner Shall Forever Pray:

Francis Grygier, Petitioner-in-Person.

Sworn and subscribed to before me this 19th day of October Our Lord, 1945. Walter Tees, Notary Public. My Commission expires Jan. 2, 1949. (Seal.)

[fol. 40] IN THE SUPREME COURT OF PENNSYLVANIA, EASTERN DISTRICT

301

DOCKET ENTRIES

Miscellaneous Docket No. 8

[Title omitted]

September 13, 1945, Petition for a writ of habeas corpus filed.

Francis Grygier.

Order

October 1, 1945, the within petition is denied.

Per Curiam.

October 26, 1945, Petition for reconsideration of petition for writ of habeas corpus filed.

October 26, 1945, Certified copy of commitment filed.
October 26, 1945, Testimony of June Sessions 1943, filed.

Order

And now, Nov. 27, 1945 the within petition is denied.

Per Curiam.

[fol. 41] In the Supreme Court of Pennsylvania, Eastern District, Philadelphia, Pennsylvania

Commonwealth of Pennsylvania ex rel. Francis Grygier

vs.

C. J. Burke, Warden, Eastern State Penitentiary, Philadelphia, Pennsylvania

Petition for Writ of Certiorari—Filed March 26, 1947

Wherefore Petitioner Respectfully Prays That a Writ of Cert-orori be issued out of and under the seal of this Honorable Court, directed to the Court of Quarter Sessions, of Philadelphia County, Philadelphia, Pennsylvania. Demanding that the Court of Quarter Sessions, Certify and send this Court for its review and examination, on a day certain to be therein named, a full and complete transcript of the records of all preceeding of said Court of the Commonwealth of Pennsylvania in this case, and that the judgment and order of the said Court.

And now to wit this day of — 1947 comes and prays your Honorable Court to issue a writ of Cert-orori based on the following Facts to wit:

That, on the 26th day of July 1943, your petitioner appeared as a defendant in the Court of Quarter Sessions, July Sessions—1943, Philadelphia County, the Honorable Harry S. McDevitt, Justice of said Court in and for the said County, presiding, in answer to the charge as contained in indictment No. 251 and 252, Charging me with the crime of "Burglary, for which crime or crimes after, after pleading Guilty to Receiving Stolen Goods, your petitioner was sentenced to a term of imprisonment by the above named justice of the aforementioned Court of "Not less than five (5) years nor more than ten (10) years in the Eastern State Penitentiary, Philadelphia, Pennsylvania, "to begin at the expiration of his prior parole sentence imposed upon him April 28, 1937.

Your petitioner avers that the tried Judge procedure, and the sentence imposed July 26th, 1943 was unconstitutional, due to the fact that your petitioner was *Twice Tried for the Same Offense.*

1. Original records will verify the following Facts to wit: Petitioner was improperly sentenced for five (5) to ten [fols. 42-43] (10) years on the Bills No. 251 and 252 for Receiving Stolen Goods by the Court of Quarter Sessions of Philadelphia County, July Sessions, 1943.

2. Your Petitioner verily shows to the Honorable Justice of the Supreme Court of Pennsylvania, that the Articles Received from Bills No. 251 and 252, *"Were Received From One Person Only"*. Therefore your relator alleges that there could not of been but *One Bill of Indictment.*

3. (Excess Sentence.)

4. It follows that the sentence of relator imposed by the Court of Quarter Sessions of Philadelphia County "Could Not Exceed No More Than Five (5) Years.

5. Unethical Attitude of the Court in Not Specifying Plainly to the Petitioner the Charge. Therefore Constituting a Definite Miscarrage of Justice.

Francis Grygier, Petitioner-in-Person.

Duly sworn to by Francis Grygier. Jurat omitted in printing.

[File endorsement omitted.]

[fol. 44] IN THE SUPREME COURT OF PENNSYLVANIA, EASTERN DISTRICT

DOCKET ENTRIES

448. Miscellaneous Docket No. 8

[Title omitted]

March 26, 1947, Petition for writ of habeas corpus filed.
Francis Grygier.

ORDER

And now, April 14th, 1947, within petition is dismissed.
Per Curiam.

[fol. 45] IN THE SUPREME COURT OF PENNSYLVANIA, EASTERN DISTRICT

COMMONWEALTH OF PENNSYLVANIA ex rel. FRANCIS JOSEPH GRYGER

v.

C. J. BURKE, Warden, Eastern State Penitentiary, Philadelphia, Penna.

PETITION FOR WRIT OF HABEAS CORPUS—Filed May 15, 1947

To the Honorable, the Justices of the Said Court:

And now to wit this — day of May, A. D. 1947, comes your petitioner above named and prays your Honorable Court to issue a writ of Habeas Corpus.

Jurisdiction of This Court

(a) In Com. v. Curry (1926), 285 Pa. 289, this Court said, at page 292: "An application for habeas corpus is proper, however, where the relator is confined under a void or illegal sentence. Com. v. Morgan, 278 Pa. 395. Also Halderman's case, 53 Pa. Super. 554, 557; Com. v. McKenty, 80 Pa. Super. 249, 251."

(b) In September of 1945, your petitioner filed a petition for a writ of habeas corpus before your Honorable Court which was denied on the grounds that your petitioner was at the time serving a sentence given prior to that of the Life Sentence imposed November 27, 1944. "Com. ex rel. Francis Grygier v. Smith Misc. Doc. #8—#301" your petitioner begs to inform the Court that this finding was in error either through a misinterpretation on the part of the Court, or through being misinformed as to the true status of the sentence of your petitioner. On the records of the Eastern State Penitentiary appear the following:

(c) "11/27/44—Philadelphia, Pa. Pleaded guilty in Quarter Session Court of Philadelphia County to "Information as charged of violation of 'Fourth Offender' Act of 1929". Under bill 461, June Term 1943, and sentenced by Judge Joseph L. Kun to Life Imprisonment in the Eastern State Penitentiary. *Note:* This sentence vacates the unexpired portion of sentence

of 4/28/37, also sentences of 7/26/43 and 1/28/44 and 2/25/44.

[fol. 46] (d) 11/28/44 Discharged under "Fourth Offender Act" (P. L. 373—4/29/29, but re-entered as D-8017 to serve sentence imposed 11/27/44.

(c) *Copy of Commitment as of November 27, 1944.*

COURT OF OYER AND TERMINER GENERAL JAIL DELIVERY, AND QUARTER SESSIONS OF THE PEACE, FOR THE CITY AND COUNTY OF PHILADELPHIA, JUNE TERM, 1943

No. 461

THE COMMONWEALTH OF PENNSYLVANIA

vs.

EDWARD GRYGIER

Sur Charge of 4th Offender Act—1929. Defendant Pleads Guilty as Charged in the Information.

I Certify, that on the 27th day of November A. D. 1944, the above named defendant is adjudged by the Court to pay a fine of One Cent to the Commonwealth, undergo imprisonment in separate or solitary confinement at labor, in the State Penitentiary for the Eastern District of Pennsylvania, for the term of The Rest of His Natural Life to be there fed, clothed, and in all respects treated as the law directs; that he pay the costs of prosecution and stand committed until judgment be fully complied with.

In witness whereof, I have hereunto set my hand and Seal of said Court, this 27th day of November, A. D. 1944.

Sgn. John J. O'Connor, Clerk.

Your petitioner now contends and avers that it is within the jurisdiction of this Court to review the contention of your petitioner that the sentence he is now serving, namely a Life Sentence Only, is an illegal sentence, and that he is being detained and incarcerated in the Eastern State Penitentiary contrary to law, based upon the following facts to wit:

1. That C. J. Burke is the duly appointed Warden of the Eastern State Penitentiary, 21st and Fairmount Avenue, Philadelphia, Pa.

Honorable Court was misinformed as to the sentence your petitioner was serving, to wit: A Life Sentence Only, as all previous sentences had been *vacated* as attested to on the records of the Eastern State Penitentiary. He is therefore serving a *Life Sentence Only.*

[fols. 57-58] 24. Your Petitioner is without remedy except by Writ to your Honorable Court; wherefore your petitioner prays your Honorable Court to issue a Writ of Habeas Corpus directed to the proper authorities releasing your Petitioner from custody forthwith and such other remedy as may apply.

And he will ever pray.

Francis Joseph Gryger.

Duly sworn to by Francis Joseph Gryger. Jurat omitted in printing.

[File endorsement omitted.]

[fols. 59-62] IN THE SUPREME COURT OF PENNSYLVANIA IN AND FOR THE EASTERN DISTRICT

No. 467 Miscl. Dkt. No. 8

[Title omitted]

CERTIFICATE OF RULE—Filed May 20, 1947

May 15, 1947, Petition for writ of habeas corpus filed.

Francis Joseph Gryger.

May 16, 1947 Rule to show cause granted returnable at Harrisburg May 26, 1947. The Clerk of the Quarter Sessions shall certify the record. Answers to be filed by the Warden and by the District Attorney.

Linn, J.

Clerk's Certificate to foregoing paper omitted in printing.

[File endorsement omitted.]

[fol. 63] SUPREME COURT OF PENNSYLVANIA, EASTERN DISTRICT

[Title omitted]

ANSWER OF C. J. BURKE, WARDEN, EASTERN STATE PENITENTIARY—Filed May 21, 1947

To the Honorable, the Judges of the Supreme Court:

C. J. Burke, Warden, Eastern State Penitentiary, Philadelphia, Penna., respectfully represents:

That, Petitioner was sentenced from Philadelphia County, Pennsylvania by the Honorable Joseph L. Kun on Bill #461 June 1943 Term of Court a term of the rest of his Natural Life after pleading guilty as charged in the information filed with the Honorable Joseph L. Kun and sentenced in accordance with the 4th Offender Act of 1929.

Photo-static copy of commitment is attached herewith for the Court's information.

That, the questions raised in the Petition are one of law, of which your realtor has no knowledge and therefore makes no answer.

Respectfully, C. J. Burke, Warden.

Duly sworn to by C. J. Burke. Jurat omitted in printing.

[File endorsement omitted.]

2. That your petitioner is illegally incarcerated in the Eastern State Penitentiary undergoing a sentence of Life Imprisonment under the Fourth Offender Act, an Act of Assembly of the Commonwealth of Pennsylvania, entitled: "The Penal Code of 1939, June 24th, P. L. 872."

3. That the outcome of this sentence was based upon the following previous convictions and sentences.

(a) March 17, 1927, your petitioner was convicted in the Circuit Court of Harford County, Maryland, of Burglary, and sentenced to serve one year at the Maryland House of Correction.

[fol. 47] (b) April 23, 1929, in the Court of Common Pleas your petitioner was sentenced to an Indeterminate to 10 years to the Huntingdon Reformatory on Bill of Indictment #1107 charging burglary, April Sessions, 1929.

(c) November 28, 1930, your petitioner, on a plea of guilty in the Court of Oyer and Terminer in Philadelphia County, Pa., to a charge of Armed Robbery, was sentenced to five to ten years in the Eastern State Penitentiary at Philadelphia, Pa.

(d) April 27, 1937, your petitioner was sentenced on a plea of guilty to Receiving Stolen Goods, Bill #1046, April Session, 1937, and was sentenced in the Court of Oyer and Terminer of Philadelphia County, Pa., to a term of 1½ to 3 years in the Eastern State Penitentiary.

(e) February 25, 1944, your petitioner was taken into Court from the Eastern State Penitentiary and convicted on bill of indictment $461, June Sessions, 1943, Philadelphia County, Pa., charging Burglary and Assault and Battery, and your petitioner was sentenced to 5 to 10 years in the Eastern State Penitentiary.

4. That on or about May 9, 1944, your petitioner was served with an 'Information' relative to Indictment as of June Sessions, 1943, #461, setting forth various crimes as related in paragraph #3, (a) to (e) inclusive. This as prescribed by the Act of Assembly, Act P. L. 872, June 24th, 1939.

5. That on November 27, 1944, your petitioner was taken into court before the Honorable Judge L. Kun, and, without being informed by the Court of the nature of the charge or your petitioner's reasons for his being there, or being asked if he wanted an attorney, the above referred "Information" was read to him by the District Attorney. Your petitioner was then asked if he were the person referred to in the said "Information" and answered in the affirmative.

6. That on the same day, November 27, 1944, your petitioner was sentenced to Life Imprisonment by the Honorable Joseph L. Kun.

7. That your petitioner was returned to the Eastern State Penitentiary on the same day, November 27, 1944, and entered on the records as:

> 11/27/44—Philadelphia, Pa. Pleaded guilty in Quarter Session Court of Philadelphia County to 'Information as charged of violation of 'Fourth Offender Act of 1929' (Under bill #461, June Term 1943,) and sentenced by Judge Joseph L. Kun to Life Imprisonment [fol. 48] in the Eastern State Penitentiary.
>
> Notice: This sentence *vacates* the unexpired portion of sentence of 4/28/37; also sentences of 7/26/43 and 1/28/44 and 2/25/44.
>
> 11-28-44—Discharged under "Fourth Offender Act" P. L. 373—4/29/29, but re-entered as D-8017 to serve sentence imposed 11/27/44.

8. That your petitioner is now, as of this date, May 8, 1947, serving a Life Sentence *Only* in the Eastern State Penitentiary according to the records on file in the Eastern State Penitentiary, and according to Law, as referred to in the Penal Code of 1939, Section 1108, par. (d) of the said 'Fourth Offender Act.'

9. That your petitioner contends and avers that this Life Sentence is illegal, unjust and that It and the Statute which set it up violates every principle of human rights as guaranteed under the Constitutions of the United States and of the Commonwealth of Pennsylvania.

10. That the manner in which it was inflicted upon your petitioner constitutes a travesity of justice in that it violates every principle of the meaning of the word Justice to All

as prescribed and set up by the Federal and State Constitutions to protect the life, liberty and property of the citizens of the United States.

(a) Article V of the United States Constitution distinctly sets forth that "No person shall be held to answer for a capital, otherwise infamous crime, unless on a presentment of indictment of a Grand Jury . . .

(b) Article VI of the United States Constitution distinctly sets forth that "In all criminal prosecutions, the accused shall . . . be confronted with witnesses against him . . . to have compulsory process of obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

(c) Section IX, Article I, of the Constitution of the Commonwealth of Pennsylvania provides that . . . In all criminal prosecutions the accused hath a right to be heard by himself and his counsel, to demand the nature and cause of the accusation against him, to meet witnesses face to face, to have compulsory process for obtaining witnesses in his favor . . . that he cannot be compelled to give evidence against himself, nor can he be deprived of his life, liberty or property unless by the judgment of his peers or the law of the land.

(d) Section X, Article I, of the Constitution of the Commonwealth of Pennsylvania provides . . . No person shall, for and indictable offense, be proceeded against criminally by *Information*, except in cases arising in the land or naval forces, or in the militia, [fol. 49] when in actual service in time of war or public danger . . ."

(It is an established fact and held to be true in all Courts of Law that any Statute which conflicts with the Constitution of the United States or the State in which it was passed, is an unconstitutional Statute, and is therefore, when so proven, to be declared null and void.)

10. Your petitioner avers that when he was taken into court on February 25, 1944, to answer to the charge of

Burglary, Assault and Battery, etc., that he had previously been tried and sentenced on this charge on July 26, 1943, along with Bills #251-262 inclusive, July Sessions 1943, charging Burglary and Receiving Stolen Goods. That your petitioner at the time acknowledged his willingness to plead guilty to Receiving Stolen Goods *only*, but that testimony was taken by the Court on all the charges covering the bills #251-262 July Sessions-1943, as well as the charge of Burglary, Assault and Battery, etc., contained in Bill #461, June Session-1943, as notes of testimony taken at this trial hearing, pages 1 to 13 inclusive, clearly show. That the Honorable Court passed sentence in such a manner:

> "The Court: 'Go back to the Penitentiary. Five to ten in the Penitentiary. You don't deserve to be out.'

that both your petitioner and his attorney, assumed that the defendant (your petitioner) was being sentenced for all counts for which testimony had just been taken. That it was only after your petitioner was taken into court on February 25, 1944, seven months later under bill of indictment #461, June Sessions-1943, that he was made aware of the fact that this charge was still pending over him in the form of an unanswered indictment which was actually answered and should have been disposed of on July 26, 1943.

11. That the act of again taking your petitioner into court to answer these charges with the sole purpose of creating an additional conviction so as to make your petitioner liable to the Fourth Offender Act, was a violation of the "Double Jeopardy" clause provided in both the Federal [fol. 50] and State Constitutions.

12. That when your petitioner was served with the 'Information' as contained in paragraph #4 again covering the same bill of indictment #461, he was incarcerated in the Eastern State Penitentiary undergoing a term of imprisonment and without financial means to prepare a defense to the charges contained in the said 'Information.'

13. That immediately upon receiving this copy of 'Information' your petitioner petitioned the Prison Officials to have access to Books of Law which would be an aid to him in preparing his own defense, and that these Books were denied him by the Prison Authorities.

14. That your petitioner was unfamiliar with the 'Fourth Offender Act', knowing none of its provisions:

(a) That he wrote to the Attorney General of the Commonwealth of Pennsylvania requesting information and advice concerning the Fourth Offender Law. This was under date of March 6, 1946, after receiving the Life sentence, and still being unfamiliar with the Law covering such sentence and still denied all opportunity of acquainting himself with its provisions as to appeal.

(b) That he received a reply from Deputy Attorney General H. J. Woodward, under date of March 26, 1946, informing your petitioner that the Law made it impossible for the Department of Justice to give to your petitioner the information he requested.

(c) That on October 22, 1946, your petitioner wrote to S. Edward Hannestand, Assistant Director, Legislative Reference Bureau, Harrisburg, Pennsylvania, and requested a copy of the Fourt- Offender Act of 1939 under which he had been sentenced.

(d) That this Act was forwarded to him by Mr. Hannestand, but that when it arrived in the penitentiary your petitioner was denied access to it by the Prison Authorities and the said Act was confiscated from the mail, although this was a direct violation of Section VII, Article I, of the Constitution of Pennsylvania which clearly sets forth that: "The printing press shall be free to ever- person who may undertake to examine the proceedings of the legislature or any branch of government, and no law shall ever be made to restrain the right thereof . . ."

[fol. 51] 15. That immediately after the Life Sentence was inflicted upon your petitioner he, still being unfamiliar with the provisions of the Act, petitioned the Board of Trustees of the Eastern State Penitentiary to release funds from the Prisoners' Welfare Fund to hire counsel to appeal his conviction, this after securing hundreds of signers among the prisoners agreeing to release of these funds.

16. That this request was denied by the Board of Trustees of the Eastern State Penitentiary based upon the following letter from the Assistant District Attorney of

Philadelphia County, Franklin E. Barr, to whom they wrote requesting advice as to your petitioner's rights, merits, and so forth, to appeal.

District Attorney's Office, Room 666, City Hall,
Philadelphia 7, Pa.

December 21, 1945.

Mr. Wm. Reinhardt, Secretary, Board of Trustees, Eastern State Penitentiary, Philadelphia, Pa.

DEAR SIR:

(1) Your letter of December 20th to Mr. Maurer, enclosing copy of a letter addressed to the Board of Trustees by Francis Joseph Geyger, handed to me for reply.

(2) This defendant has a long criminal record and is a Fourth Offender. An Information was filed under the Act of Assembly on May 4th, 1944, and served on the defendant on May 9, 1944. The case was then listed before the Court of Quarter Sessions on November 27, 1944, which gave the defendant, a seasoned criminal and knowing the ways of the Court, six months to prepare for it. As required, the whole information was read to him in open Court, setting forth the various charges. He was then asked by the Court whether he was the person referred to in the Information which the District Attorney just read to him under the various names. He answered:

"I am—my name is only Frank Grygier, and Frank Jackson, and Joe McGee; as far as the other names are concerned, they are all the same names,——"

He was then asked by the Court:

"And are you the same person referred to in the various offenses that were read to you by the Crier, as having been committed by you, under one or another of these names?"

A. "Yes, your Honor."

[fol. 52] (3) Under the Act of Assembly that is a plea of guilty to this Information. It was therefore not

necessary that counsel be employed. It was not necessary to have witnesses subpoenaed. It was not necessary to have a jury trial, and as he had plead guilty there could be no verdict.

(4) This defendant in September of 1945, filed a petition for Writ of Habeas Corpus in the Supreme Court of Pennsylvania. On October 1st, his petition for a writ was denied, the Court stating that even if the sentence imposed on him as a fourth offender were in error, the earliest time that he could be released from the penitentiary would be February 25, 1949.

(5) Even if the sentence to life imprisonment is an error, which cannot be so, nothing can be done about it until he has served his back and present time.

Very truly yours, Signed Franklin E. Barr, Assistant District Attorney.

17. That your petitioner then took up a collection among the inmates of the Eastern State Penitentiary in the form of 'pledges' in the amount of several hundreds of dollars in order to hire counsel to prepare an appeal, as he was still without knowledge that this was provided for in the Fourth Offender Act, nor was he ever made acquainted with this provision by any of the Prison Officials who continued to block his every effort to seek redress from what your petitioner at that time, and still contends is an illegal sentence. After this amount was pledged by the inmates and presented to the Board of Trustees of the said institution they immediately refused to allow the other inmates to contribute *one cent* towards your petitioner's defense or appeal.

Your petitioner wishes to call the Honorable Court's attention to paragraphs #2, #3 and #4 and #5 of the above letter from the Assistant District Attorney of Philadelphia County as written to the Board of Trustees of the Eastern State Penitentiary.

Par. #2: ". . . An Information was filed under the Act of Assembly on May 9, 1944. The case was then listed before the Court of Quarter Sessions on November 27, 1944, which gave the defendant, a seasoned criminal and knowing the ways of the Court, six months to prepare for it . . ."

[fol. 53] Par. #3: "Under the Act of Assembly that is a plea of guilty (meaning an affirmative answer to the questions contained in the information). It was therefore not necessary that counsel be employed. It was not necessary to have witnesses subpoenaed. It was not necessary to have a jury trial, and as he had plead guilty there could be no verdict."

Par. #4: "This defendant in September of 1945, filed a petition for writ of habeas corpus in the Supreme Court of Pennsylvania. On October 1st, his petition for a writ was denied, the Court stating that even if the sentence imposed on him as a fourth offender were in error, the earliest time that he could be released from the penitentiary would be February 25, 1949."

Par. #5. "Even if the sentence to life imprisonment is an error, which cannot be so, nothing can be done about it until he has served his back and present time.

18. Your petitioner avers and contends that the text of the various paragraphs of the above letter constitute personal prejudice and presumptuous knowledge of the law not based on fact. That the text clearly defines the personal bias of the District Attorney's office against your petitioner; that this biasness growing out of something unacquainted with on the part of your petitioner was the direct cause of the district attorney's office in collaboration with party or parties unknown to disregard all human rights, to flaunt wantonly and openly any question of law or justice, and to bring about the conviction of your petitioner under the Fourth Offender Act and to subsequently have him sentenced to Life Imprisonment.

19. The contention of the district attorney in paragraph #2 of the letter referred to above that:

". . . the case was listed before the Court of Quarter Sessions on November 27, 1944, which gave the defendant, a seasoned criminal and knowing the ways of the Court, six months to prepare for it . . ."

was absurd, as your petitioner was incarcerated in prison, without funds and denied permission to obtain them when freely offered by other inmates, also was he denied a copy

of the Act itself, all access to any legal forms or books which may have been an aid to him in preparing a defense.

20. Your petitioner further contends and avers that the Act as now appearing on the Statute Books, namely: The Penal Code of 1939, Section 1108, entitled, Second and Subsequently Offenses, P. L. 872, June 24th, 1939, is illegal and unconstitutional based upon the following facts to wit:

[fol. 54] (a) According to the Act itself it compels the defendant to give testimony against himself by answering in the 'affirmative to questions concerning prior convictions and upon the basis of which automatically constitute a *Plea of Guilty* to an infamous crime with the penalty of Life Imprisonment.

(b) Par. #3 of the said Act violates Article V of the United States Constitution which holds: "No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment of indictment of a Grand Jury . . ."

(c) It violates Section IX, Article I, of the Constitution of the Commonwealth of Pennsylvania which provides that . . . . "In all criminal prosecutions the accused hath a right to be heard by himself and his counsel, to demand the nature and cause of the accusation against him, to meet witnesses face to face, to have compulsory process for obtaining witnesses in his favor, that he cannot be compelled to give evidence against himself, nor be deprived of his life, liberty or property unless by the judgment of his peers or the law of the land.

(d) It violates Section X, Article I, of the Constitution of the Commonwealth of Pennsylvania which provides . . . . "no person shall, for any indictable offense, be proceeded against criminally by *Information*, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger . . ."

(e) Paragraph #3 stating "Formal Indictment and Conviction Unnecessary.—A person need not be formally indicted and convicted as a previous offender in order to be sentenced under this section" violates

the United States Constitution, the Constitution of Pennsylvania, and opinions of the higher Courts of Pennsylvania, to wit:

Com. v. Francis, 53 Super. 278.

Which upholds the fact that "The Court has no power to sentence defendant without a bill of indictment being drawn and plea entered thereon as provided by the act."

21. Your petitioner avers and contends that the manner of administering the Life Sentence was illegal based upon the following facts to wit:

(a) Your petitioner was Not Represented by Counsel as proscribed by law; nor was he asked if he desired counsel, but rather *denied counsel*, as the letter from the district attorney to the Board of Trustees states: *'no attorney is required in such cases.'*

(b) The unethical attitude of the Court in Not specifying plainly to the Petitioner the Charge and possible results of his answering in the affirmative to the district attorney's reading of the 'Information.'

[fol. 55] (c) Your petitioner was compelled to be a witness against himself due to the fact that he was not instructed as to the nature of the offense and what it constituted for him to answer in the affirmative to questions put to him by the district attorney relating to the nature of the Information; nor was he asked if he desired counsel to be appointed.

(d) That the forcing of your petitioner to appear in Court on February 25, 1944, and made to answer to the charge of Burglary and Assault constituted double jeopardy, as he had already been made to answer for this offense on July 26, 1943.

(e) That the blocking of your petitioner's every step to obtain legal counsel, funds or access to law books by the prison officials both before and after the imposition of the Life Sentence constituted a violation of Constitutional Rights covering Art. I, Sec. I, of the Commonwealth of Pennsylvania.

(f) Paragraph (b) of the Fourth Offender Act in reference to paragraph (a) clearly states that the offender must be guilty of specified crimes to come within the provisions of the Act; yet Bill 1046, April Session 1939, and given in the 'Information' as one of the crimes coming within the Fourth Offender provisions only brought about a conviction of 'Receiving Stolen Goods' on which your petitioner was convicted and sentenced to 1½ to 3 years in the Eastern Penitentiary April 28, 1937. This sentence in itself, although now completed and served was an illegal sentence as it should have been Simple Imprisonment and is not constituted in the specified crimes coming under the Fourth Offender Act.

(g) It is generally conceded in common-law rule that one state court cannot punish for any offense committed in another state . . . Commercial Nat. Bank v. Kirk, 222 Pa. 567; Nesbitt v. Clark, 272 Pa. 161, 165.

It is further recognized that crimes are cognizable and punishable only within the jurisdiction where they are committed . . . . Com. v. Kunzmann, 41 Pa. 429; McCoy v. Kalbach, 51 Super. 364, 375; Simmons v. Com., 5 Bin. 617.

Further crime #1, as listed in the 'Information' occurred on March 27, 1927; this was two years and one month prior to the passage of the Fourth Offender Act of April 29, 1929, under which the penitentiary has your petitioner sentenced, although the Information states the Act of June 24th, P. L. 872 of 1939; in either case creating an Ex Post Facto Law in violation of Art. II., Sec. XVII, of the Constitution of Pennsylvania.

(h) Although Com. v. Francies, 250 Pa. 496, 58 Super. 266, 270 upholds the Act of Assembly of April 15, 1907, P. L. 62, 19 P. S. 241, on the right of waiving a Grand Jury Indictment,

Com. v. Francies, 53 Super. 278 also upholds the fact that "The Court has no power to sentence defendant without a bill of indictment being drawn and plea entered thereon as provided by the act"

[fol. 56] (i) That a bill of indictment, namely #461, June Session, 1943, on which your petitioner had al-

ready answered twice and been sentenced once, could hardly be called a 'Bill of Indictment' covering the Fourth Offender Act, as decided in the above case—Com. v. Francies, 53 Super. 278.

Rather it appears that the Life Sentence if to be given at all should have been given on the indictment covering the 4th offense and not first sentence your petitioner on the indictment for the charge given on the face of it in order to create a 4th offense, then several months later sentence the petitioner again to Life Imprisonment on the same indictment and in the manner in which it was rendered.

(j) It has been clearly established that the conviction of a lesser crime to a certain indictment is a bar to the conviction of a greater crime on the same indictment. Further the prior conviction must be for the same act and crime so that the evidence to support one indictment is sufficient to procure a conviction on the other. (Hilands v. Com., 114 P. 372; Com. v. Shoener, 216 Pa., 71; Com. v. Exler, 61 Super. 423.)

It is difficult for your petitioner to associate the above decisions of the higher courts of the Commonwealth of Pennsylvania with the manner in which he was convicted on the Fourth Offender Act, as it is well established in law that no defendant can be charged in one and the same count with two or more ind-pendent offenses. It appears that the Act of March 31, 1860 P. L. 427, #1; 19 P. S. 261, clearly defines this:

"Every indictment shall be deemed and adjudged sufficient and good in law which charges the crime substantially in the language of the act of the assembly prohibiting the crime, and prescribing the punishment, if any such there be . . ."

22. Your petitioner further avers that when he was taken out of the penitentiary and made to answer to the Fourth Offender Act there were approximately three-hundred other prisoners in the Eastern State Penitentiary liable to the same offense, but that he, your petitioner, was singled out of this vast throng of suspects and made to answer alone.

23. Your petitioner further avers that prior to the filing of the present Petition for a Writ of Habeas Corpus the

[fols. 64-65] EXHIBIT TO ANSWER

Hon. Joseph L. Kun

COURT OF OYER AND TERMINER GENERAL JAIL DELIVERY, AND QUARTER SESSIONS OF THE PEACE, FOR THE CITY AND COUNTY OF PHILADELPHIA, JUNE TERM, 1943

No. 461

THE COMMONWEALTH OF PENNSYLVANIA

vs.

EDWARD GRYGIER

Sur Charge 4th Offender Act 1929

Defendant Pleads Guilty as Charged in the Information

I Certify, that on the 27th day of Nov. A. D. 1944, the above-named defendant is adjudged by the Court to pay a fine of One Cent to the Commonwealth, undergo imprisonment in separate or solitary confinement at labor, in the State Penitentiary for the Eastern District of Pennsylvania, for the term of the rest of his Natural Life to be there fed, clothed, and in all respects treated as the law directs; that he pay the costs of prosecution and stand committed until judgment be fully complied with.

In Witness Whereof, I have hereunto set my hand and the Seal of said Court, this 27th day of November A. D. 1944.

John J. O'Connor, Clerk.

[fol. 66] IN THE SUPREME COURT OF PENNSYLVANIA, EASTERN DISTRICT

[Title omitted]

ANSWER OF DISTRICT ATTORNEY OF PHILADELPHIA COUNTY TO PETITION FOR WRIT OF HABEAS CORPUS

To the Honorable, the Justices of the said Court:

The answer of John H. Maurer, District Attorney of Philadelphia County, respectfully represents:

The relator filed a petition in the Supreme Court of Pennsylvania, (Misc. Docket #8, No. 301) which was dis-

missed on October 1, 1945 with a short per Curiam Opinion. A similar petition was filed in the Superior Court of Pennsylvania as of Misc. Docket #5, No. 396, which was dismissed on January 17, 1946 following the Opinion of the Supreme Court. A similar petition was filed by the relator in the Supreme Court of Pennsylvania, dated March 21, 1947 (Misc. Docket #8, No. 448) which was dismissed on April 14, 1947. The present petition is more voluminous, but there are really no new allegations of fact.

The relator was sentenced to life imprisonment by reason of being a Fourth Offender under the provision of Section 1108 of the Act of June 24, 1939, P. L. 872, 18 P. S. § 5108. A copy of the Information is hereto attached and made [fol. 67] part hereof, which Information was served on the relator on May 9, 1944, and he was not brought to trial on it until November 27, 1944, so that he had more than the thirty days required by the Act.

The Act also provides:

> "Such sentences shall be reviewable on appeal by the Supreme or Superior Courts, not only as to alleged legal errors, but also as to the justice thereof. Where any such defendant is indigent, the costs of appeal, together with reasonable counsel fee, shall be paid by the Commonwealth."

No appeal was taken in this matter.

There is no allegation in the present petition nor in any of the former petitions that the relator is not a Fourth Offender in accordance with the provisions of the Act of Assembly, and the petitioner at the time of his trial on the Complaint or Information filed by the District Attorney in accordance with the provisions of the Act, admitted that he was the person named in the Complaint or Information as having been convicted of the offenses set forth therein.

The relator takes the position, incorrectly, that he was being tried for an indictable offense when he was sentenced to life imprisonment, which is untrue. The only question raised at that time was the question as to whether he was a Fourth Offender and therefore should be subject to greater punishment as provided by law. The question of punishment is a matter for the State, but is not a crime.

The relator's complaint of the Opinion of your Honorable Court filed October 1, 1945 is that it states that he is serving

[fol. 68] a prior sentence whereas in fact he is serving nothing but a life sentence and the other sentences were vacated. However, although this may be technically correct, if the life sentence were vacated he would have to serve the previous sentences which would automatically be reinstated.

Wherefore your respondent prays that the petition be dismissed.

John H. Maurer, District Attorney of Philadelphia County, by Franklin E. Barr, First Assistant District Attorney.

Duly sworn to by Franklin E. Barr. Jurat omitted in printing.

[File endorsement omitted.]

[fol. 69] EXHIBIT TO ANSWER

IN THE COURT OF OYER AND TERMINER AND GENERAL JAIL DELIVERY AND QUARTER SESSIONS OF THE PEACE FOR THE COUNTY OF PHILADELPHIA

COUNTY OF PHILADELPHIA, SS:

THE COMMONWEALTH OF PENNSYLVANIA

vs.

EDWARD GRYGIER, Alias FRANK JACKSON, Alias JOSEPH McGEE, Alias Francis Geyger, Alias Francis Grygeia, Alias Francis Guger.

INFORMATION

Relative to Indictment as of June Sessions, 1943, No. 461

1. Be it remembered by this Information that I, John H. Maurer, District Attorney of the County of Philadelphia, State of Pennsylvania, in pursuance of an Act of Assembly of the said Commonwealth, entitled, "The Penal Code of 1939, June 24th, P. L. 872", which by section 1108 provides for punishment for second and subsequent convictions, do accuse Edward Grygier, alias Frank Jackson, alias Joseph McGee, alias Francis Geyger, alias Francis Grygeia, alias Francis Guger, above named, who under and by the name of Francis Guger, within two years last past, to wit, on

February 25, 1944, before the Honorable Harry S. McDevitt, a Judge of the Court of Oyer and Terminer and General Jail Delivery of the County of Philadelphia, was duly convicted of the crime of burglary perpetrated upon the dwelling of one Raymond Wilde on or about June 20, 1943, charged against him in a certain indictment theretofore duly presented and found true at a Grand Inquest of the said Commonwealth, inquiring for said County of Philadelphia as of June Sessions, 1943, No. 461, as in said indictment particularly set forth, upon which verdict and judgment was duly entered on the 25th day of February, A. D. 1944, that the said defendant undergo and imprisonment in the Eastern State Penitentiary for a term or not less than five nor more than ten years after the expiration of a sentence he was then serving, pursuant to which judgment he is now there incarcerated of having been previously convicted and sentenced of certain other crimes three or more [fol. 70] times, to wit, the crimes of robbery and burglary, that is to say:

2. That the said defendant under the name of Edward Grygier, on March 17th, 1927, was convicted in the Circuit Court of Harford County, Maryland, of Burglary, and sentenced to serve one year at the Maryland House of Correction, and the defendant did undergo an imprisonment in the said Maryland House of Correction from March 17th, 1927 until January 17th, 1928, his discharge therefrom being absolute.

3. That the said defendant at Philadelphia County, under the name of Edward Grygier, charged with burglary of the dwelling of Walter Allen in an indictment duly presented and found true by the Grand Jury of Philadelphia County as of April Sessions, 1929, No. 1107, on which he was convicted of said crime as therein set forth on April 23, 1929, upon which verdict, judgment was duly entered the same day by the Honorable Horace Stern, a judge of said Court, that the defendant undergo imprisonment in Huntingdon Reformatory, in pursuance to which the defendant was confined until September 20, 1930.

4. That the said defendant at Philadelphia County, under the name of Frank Jackson, alias Grygier, in an indictment duly presented and found true by the Grand Jury of Philadelphia County as of November Sessions 1930, No. 1679, was

charged with robbery, being armed with an offensive weapon with intent to rob one Paul Grotzinger, and was duly convicted (plead guilty) of said crime as therein set forth on November 28, 1930, upon which verdict (plea) judgment was duly entered the same day by the Honorable Otto R. Heiligman, a judge of said Court, that the defendant undergo an imprisonment in the Eastern State Penitentiary of not less than five years nor more than ten years in pursuance of which the defendant was there confined until May 28, 1936 when he was discharged on parole.

5. That the said defendant at Philadelphia County under the name of Edward Grygier, alias Frank Jackson, alias Joseph McGee, in an indictment duly presented and found true by the Grand Jury of Philadelphia County as of April [fols. 71-72] Sessions, 1937, No. 1046, charging said defendant with burglary, entering in the night without breaking with intent to commit a felony, and receiving stolen goods of one Edward O'Neill, on April 28, 1937, was duly convicted (plead guilty) of receiving stolen goods, and upon which verdict (plea) judgment was duly entered on the same day by the Honorable Raymond MacNeille, a judge of said court, that the defendant undergo an imprisonment of not less than eighteen months nor more than three years in the Eastern State Penitentiary at the expiration of the unexpired parole sentence imposed on November 28, 1930 on Bill No. 1679 of November Sessions, 1930, and that he was confined there until April 29, 1943, when he was paroled.

Dated, Philadelphia, Pennsylvania, the first day of May, A. D. 1944.

John H. Maurer, District Attorney of Philadelphia County.

COMMONWEALTH OF PENNSYLVANIA,
County of Philadelphia, ss:

John H. Maurer, being duly sworn according to law, deposes and says that he is the District Attorney of Philadelphia County and that the facts set forth in the foregoing Information are true and correct to the best of his knowledge, information and belief.

John H. Maurer.

Sworn and subscribed to before me this 1st day of May, A. D. 1944. Edw. H. White, Jr., Notary Public.

[fol. 73] IN THE SUPREME COURT OF PENNSYLVANIA, EASTERN DISTRICT

[Title omitted]

DOCKET ENTRIES

May 15, 1947. Petition for writ of habeas corpus filed.
Francis Joseph Grygier.

May 16, 1947. Rule to show cause granted returnable at Harrisburg May 26, 1947. The Clerk of the Quarter Sessions shall certify the record. Answers to be filed by the Warden and by the District Attorney.

Linn, J.

May 20, 1947. Acceptance of service of rule by the District Attorney filed.

May 21, 1947. Acceptance of service by the Warden filed.

May 21, 1947. Warden's answer filed.,

May 26, 1947. Answer of District Attorney filed.

May 28, 1947. On considering the petition and the answers to the rule to show cause, the rule is discharged and the writ is refused.

Per Curiam.

[fols. 74-76] January 23, 1948, the following order received from the Clerk of the Supreme Court of the United States:

> "On Consideration of the motion for leave to proceed herein in forma pauperis and of the petition for writ of certiorari, it is ordered by this Court that the motion to proceed in forma pauperis be, and the same is hereby, granted; and that the petition for writ of certiorari be, and the same is hereby granted and the case is ordered transferred to the appellate docket.
>
> January 19, 1948."

[fols. 77-78] PROTHONOTARY'S CERTIFICATE

COMMONWEALTH OF PENNSYLVANIA,
Supreme Court, Eastern District, ss.

I, Charles A. Waters, Prothonotary of the Supreme Court of Pennsylvania, in and for the Eastern District

thereof, the said court being a court of record, do hereby certify that the

(1) Petition for Writ of Habeas Corpus, filed February 23, 1945, with order denying petition.
(2) Docket Entries.
(3) Petition for a Writ of Habeas Corpus, filed September 13, 1945, with order denying petition.
(4) Petition for Reconsideration of Petition for Writ of Habeas Corpus, with order denying petition.
(5) Docket Entries.
(6) Petition for Writ of Habeas Corpus, filed March 26, 1947, with order dismissing petition.
(7) Docket Entries.
(8) Petition for Writ of Habeas Corpus filed May 15, 1947, with order endorsed.
(9) Acceptances of Service of Rule By the Warden and the District Attorney.
(10) Warden's Answer.
(11) District Attorney's Answer.
(12) Order on Forma Pauperis Motion and Petition for Writ of Certiorari in the Supreme Court of the United States.
(13) Docket Entries.

all attached hereto, constitute the whole and entire original record in the matter of Commonwealth ex rel. Francis Joseph Gryger vs. C. J. Burke, Warden Eastern State Penitentiary, Nos. 266, 301, 448 and 467 Miscellaneous Docket No. 8.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of the said Court, at Philadelphia, in the County of Philadelphia, in the said Eastern District of Pennsylvania, this thirtieth day of January in the year of our Lord One Thousand Nine Hundred and Forty-eight.

C. A. Waters, Prothonotary. (Seal.)

[fol. 79] In Re: Francis Joseph Gryger

There is also attached hereto the following original Bills of Indictment and papers belonging to the record of the Court of Quarter Sessions of Philadelphia County:

Bills of Indictment 671, 672 April Sessions, 1928
Bill of Indictment [illegible] April Sessions, 1929

Bill of Indictment 1679 and 1680 November Sessions, 1930
Bills of Indictment 1046, 1047 April Sessions, 1937
Bills of Indictment 461, 462 June Sessions 1943
Bills of Indictment 251 to 262 inc. July Sessions, 1943
Copy of Testimony dated November 27, 1944
Copy of Prisoner's Criminal Record.

C. A. Waters, Prothonotary.

[fol. 80] IN THE COURT OF QUARTER SESSIONS FOR THE CITY AND COUNTY OF PHILADELPHIA

COMMONWEALTH

vs.

EDWARD GRYGIER

April Sessions, 1928. Nos. 671 and 672

Sur charge: *A. & B. and C. C. D. W.*

PETITION FOR PAROLE—Filed November 26, 1928

To the Honorable the Judges of the said Court:

The petition of Josephine Grygier respectfully represents:

That she is the mother of the above named Edward Grygier, who pleaded Guilty to the charges in this case and was sentenced by Hon. Frank Smith on April 17, 1928 to a term of one year in the Philadelphia County Prison, where he is now confined.

Your petitioner further represents that the said Edward Grygier is eighteen years of age, unmarried, and has never before been in any trouble whatsoever.

Your petitioner also avers that she is the mother of two smaller children and that Edward was of the greatest assistance to her in the support of their home. That he was steadily employed in a Plush Mill at good wages at the time of his arrest. Your petitioner feels sure that her son has learned a valuable and salutary lesson through the imprisonment he has already suffered in this case and can be relied upon to go absolutely straight in the future.

Therefore, your petitioner now prays that Your Honorable Court will parole the said Edward Grygier and place

him in charge of and under the supervision of the designated Probation Officer of this Court in accordance with the provisions of the Act of Assembly approved June 19, 1911.

And she will ever pray &c.

Josephine Grygier.

[fol. 81] *Duly sworn to by Josephine Grygier. Jurat omitted in printing.*

[File endorsement omitted.]

[fols. 82-83] DECREE

And Now, to wit this 10 day of December A. D. 1928, upon consideration of the facts set forth in the foregoing petition, and a hearing duly held thereon, it is hereby ordered, decreed and adjudged that the said Edward Grygier be paroled in the custody of, and under the supervision of, the designated Probation Officer of this Court in accordance with the provisions of the Act of Assembly approved June 19, 1911. Probation period 5 years.

Frank Smith, Judge.

[fol. 84] IN THE COURT OF QUARTER SESSIONS OF THE PEACE, OF THE COUNTY OF PHILADELPHIA, APRIL SESSIONS, 1928

BILL OF INDICTMENT

COUNTY OF PHILADELPHIA, ss:

The Grand Inquest of the Commonwealth of Pennsylvania, inquiring for the County of Philadelphia, upon their respective oaths and affirmations, do present, That Edward Grygier late of the said County, yeoman, on the third day of April in the year of our Lord one thousand nine hundred and twenty-eight, at the County aforesaid, and within the jurisdiction of this Court, with force and arms, in and upon one Frank J. Moore did make an assault, and the said *Frank J. Moore* did beat, wound and ill-treat and other wrongs to the said Frank J. Moore then and there did, to the great damage of the said Frank J. Moore: contrary to the form of the Act of the General Assembly in such case made and

provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

John Monaghan, District Attorney.

[fol. 85] Witnesses: Jos. Clark 2498, Corp. Moore 101, 20th Dist. Bail, $800. Costello, Magistrate.

[Endorsed:] No. 671. April Sessions, 1928. Commonwealth vs. Edward Grygiea. Assault and Battery on Frank J. Moore. True Bill April 16, 1928. W. G. Kendrick, Foreman. 4/17/28. The Defendant being arraigned, plead guilty. Dist. Atty. sim. et issue. Eo Die Verdict and Sentence, One (1) year, E. P. by the Court, —— ——.
April 17, 1928-453. December 10, 1928-453.

[fol. 86] In the Court of Quarter Sessions of the Peace, of the County of Philadelphia

Bill of Indictment

April Sessions, 1928.

County of Philadelphia, ss.:

The Grand Inquest of the Commonwealth of Pennsylvania inquiring for the County of Philadelphia, upon their respective oaths and affirmations, do present, That Edward Grygiea, late of the said County, yeoman, on the third day of April in the year of our Lord one thousand nine hundred and twenty-eight, at the County aforesaid, and within the jurisdiction of this Court, did unlawfully and maliciously carry on and about the person of him the said Edward Grygiea a certain concealed deadly weapon commonly called an automatic pistol, the said pistol being then and there loaded with powder and bullet, with an intent then and there, with the pistol so loaded as aforesaid, unlawfully and maliciously to do bodily harm to some other person to the Inquest aforesaid yet unknown, contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

John Monaghan, District Attorney.

[fol. 87] Witnesses: Jos. Clark 2498; Corp. Moore 101. 20th Dist. Bail, $800. Costello, Magistrate.

[Endorsed:] No. 672. April Sessions, 1928. Commonwealth vs. Edward Grygiea. Carrying Concealed Deadly Weapons. True Bill. W. G. Kendrick, Foreman. April 16, 1928. 4/17/28. The Defendant being arraigned, plead Guilty. Sentence on 671.

Apr. 17, 1928 453.

[fol. 88] In the Court of Oyer and Terminer of the County of Philadelphia

Bill of Indictment

April Sessions, 1929.

County of Philadelphia, ss.:

The Grand Inquest of the Commonwealth of Pennsylvania, inquiring for the County of Philadelphia, upon their respective oaths and affirmations, do present, That Edward Grygier, late of the said County, minor, on the eighteenth day of April in the year of our Lord one thousand nine hundred and twenty-nine about the hour of eleven in the night of the same day, at the county aforesaid, and within the jurisdiction of this court, with force and arms, etc., the building and dwelling house then and there situate of Walter Allen unlawfully, wilfully, maliciously, feloniously and burglariously did break and enter, with intent the goods and chattels, moneys and property of him the said Walter Allen in the said building and dwelling house then and there being, feloniously and burglariously to steal, take and carry away; and then and there in the said building and dwelling house, certain property, to wit, two strings of beads, together of the value of twenty-five dollars; four suits of men's clothes, together of the value of four hundred dollars; two coats, together of the value of seventy-five dollars; and four dresses, together of the value of four hundred dollars; altogether of the value of nine hundred dollars, of the goods and chattels, moneys and property of him the said Walter Allen in the said building and dwelling house then and there being found, feloniously and burglariously did steal, take and carry away, contrary to the form of the act of the general assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

[fol. 88a] And the Grand Inquest aforesaid, upon their oaths and affirmations aforesaid, do further present, that the said Edward Grygier on the day and year aforesaid, at the country aforesaid, and within the jurisdiction of this court, with force and arms, etc., did about the hour of eleven in the night of the same day, unlawfully, wilfully, maliciously and feloniously enter the building and dwelling house of him the said Walter Allen then and there situate, without breaking the same, with intent then and there certain property, to wit, two strings of beads, together of the value of twenty-five dollars; four suits of men's clothes, together of the value of four hundred dollars; two coats, together of the value of seventy-five dollars; and four dresses, together of the value of four hundred dollars; all together of the value nine hundred dollars; the goods and chattels, moneys and property of him the said Walter Allen to feloniously steal, take and carry away contrary to the form of the act of the general assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

[fol. 89] And the Grand Inquest aforesaid, upon their oaths and affirmations aforesaid do further present, That the said Edward Grygier afterwards, to wit: On the same day and year aforesaid, at the county aforesaid, and within the jurisdiction of this court, with force and arms, etc., the goods and chattels, moneys and property aforesaid by some ill-disposed person (to the Jurors aforesaid yet unknown) then lately before feloniously and burglariously stolen, taken and carried away, unlawfully, unjustly and for the sake of wicked gain did receive and have (the said Edward Grygier then and there well knowing the goods and chattels, moneys and property last mentioned to have been feloniously and burglariously stolen, taken and carried away), contrary to the form of the act of the general assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

John Monaghan, District Attorney.

[fol. 90] Witnesses: Walter E. Allen, 1815 Butler St. Det. Bradford, McDowell, Central. Milton Rose, 2954 Kensington Ave. Oswald, Magistrate.

[Endorsed:] No. 1107. April Sessions, 1929. Commonwealth vs. Edward Grygier, 757 E. Ontario St. Burglary,

Entering in the Night, without Breaking, with intent to commit a Felony. Receiving Stolen Goods. True Bill. James C. Lynch, Foreman. April 22, 1929. 4/23/29. The Defendant being arraigned, plead not guilty. Eo Die verdict guilty and sentenced Huntingdon Reformatory. By the Court, Horace Stern, J.

Apr. 23, 1929. 453.

[fols. 91-92] In the Court of Oyer and Terminer and General Jail Delivery of the County of Philadelphia, November Sessions, 1930

Bill of Indictment

County of Philadelphia, ss:

The Grand Inquest of the Commonwealth of Pennsylvania, inquiring for the County of Philadelphia, upon their respective oaths and affirmations, do present, That Frank Jackson alias Grygier, late of the said County, yeoman, on the twenty-second day of November in the year of our Lord one thousand nine hundred and thirty at the County aforesaid, and within the jurisdiction of this Court, with force and arms, etc., being armed with an offensive weapon and with an offensive instrument, in and upon one Paul Grotzinger feloniously did make an assault, and the said Paul Grotzinger in bodily fear and danger of his life, then and there feloniously did put, and from the person of one Paul Grotzinger, the sum of twenty-six dollars and fifty cents, in lawful money of the United States, of the value of twenty-six dollars and fifty cents, of the goods and chattels, moneys and property of the said Paul Grotzinger, then and there feloniously and violently did rob, seize, steal, take and carry away: contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

And the Grand Inquest aforesaid, upon their oaths and affirmations aforesaid, do further present, That the said Frank Jackson alias Grygier, on the twenty-second day of November, in the year of our Lord one thousand nine hundred and thirty, at the County aforesaid, and within the jurisdiction of the Court aforesaid, with force and arms,

etc., being armed with an offensive weapon and with an offensive instrument, in and upon the said Paul Grotzinger feloniously did make an assault, with an intent, from the [fol. 93] person of the said Paul Grotzinger, the sum of twenty-six dollars and fifty cents, in lawful money of the United States of the value of twenty-six dollars and fifty cents, of the goods and chattels, moneys and property of the said Paul Grotzinger then and there feloniously and violently to rob, seize, steal, take and carry away: contrary to the form of the Act of the General Assembly, in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

[fol. 94] Witnesses: Paul Grotzinger, 1000 E. Tioga St. Off. Shay 1573 30th Dist. Lindell, Magistrate.

[Endorsed:] No. 1679. November Sessions, 1930. Commonwealth vs. Frank Jackson alias Grygier, 2248 Simon St. ? or 2027 Hart Lane. 1st Count, Robbery.—Being armed with an offensive weapon. 2nd Count, Assault.—Being armed with an offensive weapon with an intent to rob. True Bill. M. Longhead, Foreman. Nov. 26, 1930. 11/28/30. The Defendant being arraigned, pleads guilty Eo Die. Sent to not less than 5 years nor more than 10 years. E. P., by the Court.

Nov. 28, 1930. 453.

[fol. 95] In the Court of Quarter Sessions of the Peace, of the County of Philadelphia, November Sessions, 1930

Bill of Indictment

County of Philadelphia, ss:

The Grand Inquest of the Commonwealth of Pennsylvania, inquiring for the County of Philadelphia, upon their respective oaths and affirmations, do present, That Frank Jackson alias Grygier, late of the said County, Yeoman, on the twenty-second day of November in the year of our Lord one thousand nine hundred and thirty, at the County aforesaid, and within the jurisdiction of this Court, feloniously, wilfully and maliciously did enter the building and store there situate of Paul Grotzinger with an

intent, the goods and chattels, moneys and property in the said building and store, from the person of Paul Grotzinger then and there being found, violently and feloniously to rob, seize, steal, take and carry away: contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

[fol. 96] Witnesses: Paul Grotzinger, 1000 E. Tioga St. Off. Shay, 1573 30th Dist. Lindell, Magistrate.

[Endorsed:] No. 1680. November Sessions, 1930. Commonwealth vs. Frank Jackson alias Grygier. 1st Count—Entering With Intent to Rob. Nov. 26, 1930. True Bill. M. Longhead, Foreman. 11/28/30. The Defendant being arraigned, plead guilty. Sentence on 1679.

Nov. 28, 1930, 453.

[fol. 97] IN THE COURT OF OYER AND TERMINER AND QUARTER SESSIONS OF THE PEACE FOR THE COUNTY OF PHILADELPHIA, APRIL SESSIONS, 1937

No. 1046

COMMONWEALTH

vs.

EDWARD GRYGIER

Enter my appearance for the above named defendant.

Thomas E. Cogan, Defender.

To Clerk, Q. S., Phila. County.

[fol. 98] IN THE COURT OF OYER AND TERMINER OF THE COUNTY OF PHILADELPHIA, APRIL SESSIONS, 1937

BILL OF INDICTMENT

COUNTY OF PHILADELPHIA, SS:

The Grand Inquest of the Commonwealth of Pennsylvania, inquiring for the County of Philadelphia, upon their respective oaths and affirmations, do present, That Edward Grygier alias Frank Jackson alias Joseph McGee, late of

the said County, Yeoman on the sixteenth day of April in the year of our Lord one thousand nine hundred and thirty-seven about the hour of eleven in the night of the same day, at the county aforesaid, and within the jurisdiction of this court, with force and arms, etc., the building and dwelling house then and there situate of Edward O'Neill unlawfully, wilfully, maliciously, feloniously and burglariously did break and enter, with intent the goods and chattels, moneys and property of him the said Edward O'Neill in the said building and dwelling house then and there being, feloniously and burglariously to steal, take and carry away; and then and there in the said building and dwelling house, certain property, to wit, one silver table set, of the value of one hundred and twenty-five dollars; and four men's rings, one lady's watch, one lady's ring, six fraternal charms, one revolver, one vacuum cleaner and one man's hat, together of the value of one hundred and twenty-five dollars; altogether of the value of two hundred and fifty dollars, of the goods and chattels, moneys and property of him the said Edward O'Neill in the said building and dwelling house then and there being found, feloniously and burglariously did steal, take and carry away, contrary to the form of the act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

[fol. 99] And the Grand Inquest aforesaid, upon their oaths and affirmations aforesaid, do further present, That the said Edward Grygier alias Frank Jackson alias Joseph McGee, on the day and year aforesaid, at the County aforesaid, and within the jurisdiction of this Court, with force and arms, etc., did about the hour of eleven in the night of the same day, unlawfully, wilfully, maliciously and feloniously enter the building and dwelling house of him the said Edward O'Neill then and there situate, without breaking the same, with intent then and there the goods and chattels, moneys and property of him the said Edward O'Neill to feloniously steal, take and carry away contrary to the form of the act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

[fol. 100] And the Grand Inquest aforesaid, upon their oaths and affirmations aforesaid, do further present That the said Edward Grygier alias Frank Jackson alias Joseph

McGee afterwards, to wit; On the same day and year aforesaid, at the county aforesaid, and within the jurisdiction of this court, with force and arms, etc., the goods and chattels, moneys and property aforesaid by some ill-disposed person (to the Jurors aforesaid yet unknown) then lately before feloniously and burglariously stolen, taken and carried away, unlawfully, unjustly and for the sake of wicked gain did receive and have (the said Edward Grygier alias Frank Jackson alias Joseph McGee then and there well knowing the goods and chattels, moneys and property last mentioned to have been feloniously and burglariously stolen, taken and carried away), contrary to the form of the act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

Charles F. Kelley, District Attorney.

[fol. 101] Witnesses: Off Davis 2868, Peterson 4246, 24th Dist. Det McCourt 94, Lennon 170, Burke 142, 2rd Det. Div. Sarah O'Neill, Edward O'Neill, 7406 Briar Rd. Holland, Magistrate.

[Endorsed:] No. 1046. April Sessions, 1937. Commonwealth vs. Edward Grygier alias Frank Jackson alias Joseph McGee, 477 Green St., Brooklyn, N. Y. Burglary. True Bill. April 26, 1937. Edw. —. ——, Jr., Foreman. 4/28/37. The Defendant being arraigned, plead guilty 3rd count. Verdict, Eo Die.

4/28/37. Sentence 18 mos. to 3 years. E. P. at expiration of unexpired parole. Sentence imposed 11/28/30 on bill 1679 of November, 1930. By the Court, R. MacNeille, J. Apr. 28, 1937, 453.

[fol. 102] In the Court of Quarter Sessions of the Peace, of the County of Philadelphia, April Sessions, 1937.

Bill of Indictment

County of Philadelphia, ss:

The Grand Inquest of the Commonwealth of Pennsylvania, inquiring for the County of Philadelphia, upon their respective oaths and affirmations, do present, That Edward

Grygier alias Frank Jackson alias Joseph McGee late of the said County, yeoman on the sixteenth day of April in the year of our Lord one thousand nine hundred and thirty seven, at the County aforesaid, and within the jurisdiction of this Court, did unlawfully carry concealed upon his person a certain deadly weapon, commonly called a revolver, said revolver being then and there loaded with powder and bullet with the intent therewith unlawfully and maliciously to do injury to some other person to the Grand Inquest aforesaid as yet unknown: contrary to the form of the act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

And the Grand Inquest aforesaid, upon their oaths and affirmations aforesaid, do further present, That the said Edward Grygier alias Frank Jackson alias Joseph McGee on the said sixteenth day of April, in the year of our Lord one thousand nine hundred and thirty seven, at the county aforesaid, and within the jurisdiction of this Court, did unlawfully carry, in a place not his abode nor his fixed place of business, to wit, on or about the person of him the said Edward Grygier alias Frank Jackson alias Joseph McGee a firearm, to wit, a revolver with a barrel less than twelve inches, without a license therefor as required by law; said firearm not being an antique unsuitable for use and not possessed as a curiosity or ornament: contrary to the form of the Act of the General Assembly in such case made and provided and against the peace and dignity of the Commonwealth of Pennsylvania.

Charles F. Kelley, District Attorney.

[fol. 103] Witnesses: Off Davis 2868. Peterson 4246. 24th Dist. Det. McCourt 94; Lennon 170; Burke 142; 3rd Det. Div. Sarah O'Neill, Edw. O'Neill, 7406 Briar Rd., Holland, Magistrate.

[Endorsed:] No. 1047. April Sessions, 1937. Commonwealth vs. Edward Grygier alias Frank Jackson alias Joseph McGee, 477 Green St., Brooklyn, N. Y. True Bill April 26, 1937. —— ——, Foreman. 4/28/37. The Defendant being arraigned, plead guilty. Verdict, Eo Die. Sentence on 1046.

Apr. 28, 1937. 453.

[fol. 104] IN THE COURT OF OYER AND TERMINER AND GENERAL JAIL DELIVERY AND QUARTER-SESSIONS OF THE PEACE FOR THE COUNTY OF PHILADELPHIA

COUNTY OF PHILADELPHIA, SS:

THE COMMONWEALTH OF PENNSYLVANIA

VS.

EDWARD GRYGIER, Alias Frank Jackson, Alias Joseph McGee, Alias Francis Geyger, Alias Francis Grygeia, Alias Francis Guger

INFORMATION

Relative to Indictment as of June Sessions, 1943, No. 461

1. Be it remembered by this Information that I, John H. Maurer, District Attorney of the County of Philadelphia, State of Pennsylvania, in pursuance of an Act of Assembly of the said Commonwealth, entitled, "The Penal Code of 1939, June 24th, P. L. 872", which by section 1108 provides for punishment for second and subsequent convictions, do accuse Edward Grygier, alias Frank Jackson, alias Joseph McGee, alias Francis Geyger, alias Francis Grygeia, alias Francis Guger, above named who under and by the name of Francis Guger, within two years last past, to wit, on February 25, 1944, before the Honorable Harry S. McDevitt, a Judge of the Court of Oyer and Terminer and General Jail Delivery of the County of Philadelphia, was duly convicted of the crime of burglary perpetrated upon the dwelling of one Raymond Wilde on or about June 20, 1943, charged against him in a certain indictment theretofore duly presented and found true at a Grand Inquest of the said Commonwealth, inquiring for said County of Philadelphia as of June Sessions, 1943, No. 461, as in said indictment particularly set forth, upon which verdict and judgment was duly entered on the 25th day of February, A. D. 1944, that the said defendant undergo an imprisonment in the Eastern State Penitentiary for a term or not less than five nor more than ten years after the expiration of a sentence he was then serving, pursuant to which judgment he is now there incarcerated of having been previously convicted and sentenced of certain other crimes three or more times, to

[fol. 105] wit, the crimes of robbery and burglary, that is to say:

2. That the said defendant under the name of Edward Grygier, on March 17th, 1927, was convicted in the Circuit Court of Harford County, Maryland, of Burglary, and sentenced to serve one year at the Maryland House of Correction, and the defendant did undergo an imprisonment in the said Maryland House of Correction from March 17th, 1927 until January 17th, 1928, his discharge therefrom being absolute.

3. That the said defendant at Philadelphia County, under the name of Edward Grygier, charged with burglary of the dwelling of Walter Allen in an indictment duly presented and found true by the Grand Jury of Philadelphia County as of April Sessions, 1929, No. 1107, on which he was convicted of said crime as therein set forth on April 23, 1929, upon which verdict, judgment was duly entered the same day by the Honorable Horace Stern, a judge of said Court, that the defendant undergo imprisonment in Huntingdon Reformatory, in pursuance to which the defendant was confined until September 20, 1930.

4. That the said defendant at Philadelphia County, under the name of Frank Jackson, alias Grygier, in an indictment duly presented and found true by the Grand Jury of Philadelphia County as of Novembere Sessions 1930, No. 1679, was charged with robbery, being armed with an offensive weapon with intent to rob one Paul Grotzinger, and was duly convicted (plead guilty) of said crime as therein set forth on November 28, 1930, upon which verdict (plea), judgment was duly entered the same day by the Honorable Otto R. Heiligman, a judge of said Court, that the defendant undergo an imprisonment in the Eastern State Penitentiary of not less than five years nor more than ten years in pursuance of which the defendant was there confined until May 28, 1936 when he was discharged on parole.

5. That the said defendant at Philadelphia County under the name of Edward Grygier, alias Frank Jackson, alias Joseph McGee, in an indictment duly presented and found true by the Grand Jury of Philadelphia County as of April Sessions, 1937, No. 1046, charging said defendant with [fol. 106] burglary, entering in the night without breaking with intent to commit a felony, and receiving stolen goods

of one Edward O'Neill, on April 28, 1937, was duly convicted (plead guilty) of receiving stolen goods, and upon which verdict (plea) judgment was duly entered on the same day by the Honorable Raymond MacNeille, a judge of said court, that the defendant undergo an imprisonment of not less than eighteen months nor more than three years in the Eastern State Penitentiary at the expiration of the unexpired parole sentence imposed on November 28, 1930 on Bill No. 1679 of November Sessions, 1930, and that he was confined there until April 29, 1943, when he was paroled.

Dated: Philadelphia, Pennsylvania, the first day of May, A. D. 1944.

John H. Maurer, District Attorney of Philadelphia County.

Duly sworn to by John H. Maurer. Jurat omitted in printing.

[fol. 107] Witnesses: Geo. F. Richardson, Det. Bureau, City Hall.

[Endorsed:] No. 461. June Sessions, 1943. Court of Oyer and Terminer and General Jail Delivery and Quarter Sessions of the Peace for Philadelphia County. Commonwealth of Pennsylvania v. Edward Grygier, alias Frank Jackson, alias Joseph McGee, alias Francis Gyger, alias Francis Grygeia, alias Francis Guger. Information. Under the Penal Code of 1939, June 24th, P. L. 872, authorizing the sentencing of persons convicted for a second or subsequent offense of certain crimes to additional prison terms and to imprisonment for life. Filed May 4th, 1944. 11/27/44. The Defendant being arraigned pleads —. District Attorney sim et issue. Verdict and Sentence 11/27/44. The information bring read to the defendant in open court, he was asked by the court whether he was the person named in the information and whether he was the same person as charged with the offenses set forth in the information. Eo die, the defendant confesses that he is the same person. Sentence: the defendant is hereby sentenced to the Eastern State Penitentiary for the remainder of his natural life. And the Sentence 2/25/44 is vacated by the Court. ——, ——, J.

Nov. 27, 1944. 453.

[fols. 108-109] QUARTER SESSIONS COURT, JUNE TERM, 1943

No. 461-462

COMMONWEALTH

vs.

FRANCIS J. GRYGIER

ENTRY OF APPEARANCE—Filed June 28, 1943

To the Clerk of Court:

Kindly enter my appearance for Francis J. Grygier, the Defendant in the above entitled case.

Philip Werner, Attorney for Defendant.

[File endorsement omitted.]

[fol. 110] IN THE COURT OF OYER AND TERMINER AND GENERAL JAIL DELIVERY AND QUARTER SESSIONS OF THE PEACE FOR THE COUNTY OF PHILADELPHIA, JUNE SESSIONS, 1943

No. 461

COMMONWEALTH OF PENNSYLVANIA

vs.

EDWARD GRYGIER, alias Frank Jackson, alias Joseph McGee, alias Francis Geyger, alias Francis Grygeia, alias Francis Guger

AFFIDAVIT OF SERVICE OF COPY OF INFORMATION PURSUANT TO THE PENAL CODE OF 1939, JUNE 24TH, P. L. 872—Filed May 9, 1944

COMMONWEALTH OF PENNSYLVANIA,
City and County of Philadelphia, ss:

Howard A. Cunningham, being duly sworn according to law, deposes and says:

That he is a County Detective of the City and County of Philadelphia, and that by direction of John H. Maurer, District Attorney of said County, and pursuant to An Act of Assembly, entitled "The P l Code of 1939, June 24th,

P. L. 872", he did on the 5th day of May, A. D. 1944, at the Eastern State Penitentiary, Philadelphia, Pa., at 12:30 o'clock P. M. Eastern War Time, and in the presence of Walter Tees, Parole Officer, serve upon Edward Grygier, alias Frank Jackson, alias Joseph McGee, alias Francis Geyger, alias Francis Grygeia, alias Francis Guger, the above named defendant, personally, a true and correct copy of the Information against him filed by the District Attorney on May 4th, 1944, under the above Act of Assembly, as of June Sessions, 1943, No. 461, in the above captioned Courts, and also did serve upon the said defendant notice (copy of which is hereto attached) and did make known the contents of said Information to the said defendant and handed him the said Information personally with the said notice.

Howard N. Cunningham.

Sworn to and subscribed before me this 9th day of May, A. D. 1944. Nathan Stup, Notary Public. My Commission expires Jan. 27, 1945. (Seal.)

[fols. 111-112] In the Court of Over and Terminer and General Jail Delivery and Quarter Sessions of the Peace for the County of Philadelphia

Commonwealth of Pennsylvania

vs.

Edward Grygier, alias Frank Jackson, alias Joseph McGee, alias Francis Geyger, alias Francis Grygeia, alias Francis Guger

Information Relative to Indictment as of June Sessions, 1944, No. 461

Philadelphia, May 1st, 1944.

To Edward Grygier, alias Frank Jackson, alias Joseph McGee, alias Francis Geyger, alias Francis Grygeia, alias Francis Guger, above named defendant.

Sir:

You are hereby notified that on May 1st, 1944, the District Attorney of Philadelphia County duly filed in the Court of

Oyer and Terminer and General Jail Delivery and Quarter Sessions of the Peace of said County, on information required by law to be filed by him under the provisions of an Act of Assembly of the Commonwealth of Pennsylvania, entitled "The Penal Code of 1939, June 24th, P. L. 872" accusing you of having been previously convicted of certain other crimes and offenses as charged in said information, and included in said Act of Assembly, authorizing the sentencing of persons convicted of a second or subsequent offense of certain crimes to additional prison terms and to imprisonment for life; and in pursuance of the provisions of said Act of Assembly, a true and correct copy of said Information is handed to you and served upon you.

John H. Maurer, District Attorney, Philadelphia County.

[fol. 113] IN THE COURT OF OYER AND TERMINER AND GENERAL JAIL DELIVERY AND QUARTER SESSIONS OF THE PEACE, FOR THE COUNTY OF PHILADELPHIA, JUNE SESSIONS, 1943

BILL OF INDICTMENT

COUNTY OF PHILADELPHIA, ss:

The Grand Inquest of the Commonwealth of Pennsylvania, inquiring for the County of Philadelphia, upon their respective oaths and affirmations, do present, that Francis Guger, late of the said county, yeoman, on the twentieth day of June, in the year of our Lord one thousand nine hundred and forty-three at the County aforesaid, and within the jurisdiction of this Court, with force and arms, etc., the building and dwelling then and there situate of one Raymond Wilde, unlawfully, wilfully, maliciously, feloniously and burglariously did enter with intent to commit a felony, to wit, with intent the goods, chattels, moneys and property of the said Raymond Wilde, in said building and dwelling then and there being feloniously and burglariously attempt to steal, take and carry away; contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

And the Grand Inquest aforesaid, upon their oaths and affirmations aforesaid, do further present, that the said defendant above named, afterwards, to wit, on the day and

year aforesaid, at the County aforesaid, and within the jurisdiction of this Court, the goods, chattels, moneys and property aforesaid, by some ill-disposed person (to the Grand Jurors aforesaid as yet unknown) then lately before feloniously and burglariously stolen, taken and carried away, feloniously, unjustly and for the sake of wicked gain did receive and have; the said defendant above named, then and there well knowing the said goods, chattels, moneys and property aforesaid to have been feloniously stolen, taken and carried away: contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

John H. Maurer, District Attorney.

[fol. 114] Witnesses: Det Frank Flanagan 106 Jos. Duffy 4th Det Div., Harry Haas 4140 "L" St., Raymond Wilde 4152 "L" St. Scene of Crime: 4142 "L" St. Bail, $1500. Williams, Magistrate.

[Endorsed:] No. 461, June Sessions, 1943. Burglary. June 23, 1943. True Bill. Wale J. Lightfoot, Foreman. 6/28/43. The Defendant being arraigned, plead Not Guilty. Dist. Atty. sim. et issue. 2/25/44. Verdict, Guilty. Sentence, not less than (5) Five nor more than (10) years, at separate and solitary confinement in the Eastern State Penitentiary; to be computed from after expiration of present sentence. By the Court, H. S. McDevitt, Judge. 1046 April 1937—251-252 July 1943 and Bill 144, 1943 of November of Montgomery County.

Jun. 28, 1943, 453. Jul. 12, 1943, 653. Jul. 26, 1943, 653. Aug. 11, 1943, 453. Feb. 24, 1944, 453.

[fol. 115] In the Court of Quarter Sessions of the Peace, of the County of Philadelphia, June Sessions, 1943

Bill of Indictment

County of Philadelphia, ss:

The Grand Inquest of the Commonwealth of Pennsylvania, inquiring for the County of Philadelphia, upon their respective oaths and affirmations, do present, that Francis Guger, late of the said County, yeoman, on the twentieth

day of June in the year of our Lord one thousand nine hundred and forty-three at the County aforesaid, and within the jurisdiction of this Court, with force and arms, etc., Harry Hass, in and upon one Harry Hass, in the peace of God and the said Commonwealth then and there being, did make an assault, and the said Harry Hass, did beat, wound and ill-treat, and other wrongs to the said Harry Hass, then and there did, to the great damage of the said Harry Hass: contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

And the Grand Inquest aforesaid, upon their oaths and affirmations aforesaid, do further present, That the said Francis Guger afterwards, to wit: on the same day and year aforesaid, at the County aforesaid, and within the jurisdiction of this Court, with force and arms, etc., on the said Harry Hass, in the peace of God and of the said Commonwealth then and there being, did make another assault, and then and there unlawfully and maliciously did inflict grievous bodily harm upon the said Harry Hass: contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commo-wealth of Pennsylvania.

John H. Maurer, District Attorney.

[fol. 116] Witnesses: Det. Frank Flanagan 106, Jos. Duffy 4th Det. Div. Harry Haas 4140 "L" St., Raymond Wilde 4142 "L" St. Scene of Crime: 4142 "L" St. Bail $1500. Williams, Magistrate.

[Endorsed:] No. 462. June Sessions, 1943. Francis Guger R. D. 1, Pottstown, Pa. 1. Assault and Battery. 2. Aggravated Assault and Battery on Harry Hass. June 23, 1943. True Bill. Wale J. Lightfoot, Foreman. 6/28/43. The Defendant being arraigned, plead Not Guilty. Dist. Atty. sim. et issue. 2/25/44. Verdict, Guilty. 2/25/44. Sentence, Suspended. Harry S. McDevitt, Judge.

Jun. 28, 1943, 453. Jul. 12, 1943, 653. Jul. 26, 1943, 653. Aug. 11, 1943, 453. Feb. 24, 1944, 453.

[fol. 117] IN THE COURT OF OYER AND TERMINER AND GENERAL JAIL DELIVERY AND QUARTER SESSIONS OF THE PEACE, FOR THE COUNTY OF PHILADELPHIA, JULY SESSIONS, 1943

BILL OF INDICTMENT

COUNTY OF PHILADELPHIA, ss:

The Grand Inquest of the Commonwealth of Pennsylvania, inquiring for the County of Philadelphia, upon their respective oaths and affirmations, do present, that Francis Gryger, late of the said county, yeoman, on the thirty-first day of May, in the year of our Lord one thousand nine hundred and forty-three at the County aforesaid, and within the jurisdiction of this Court, with force and arms, etc., the building and dwelling then and there situate of one Asher Davidson, unlawfully, wilfully, maliciously, feloniously and burglariously did enter with intent to commit a felony, to wit, with intent the goods, chattels, moneys and property of the said Asher Davidson, in said building and dwelling then and there being, feloniously and burglariously to steal, take and carry away; and then and there in said building and dwelling, certain property, to wit, one Silver Set, of the value of one hundred and fifty dollars, two ladies Pins, together of the value of twenty dollars, one Lapel Pin, of the value of ten dollars, one Brooch, of the value of ten dollars, three Bracelets, together of the value of thirty dollars, one String of Pearls, of the value of five dollars, and the sum of five dollars, in lawful money of the United States, of the value of five dollars, altogether, of the value of two hundred and thirty dollars, of the goods, chattels, moneys and property of the said Asher Davidson, then and there being found, feloniously and burglariously did steal, take and carry away: contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

And the Grand Inquest aforesaid, upon their oaths and affirmations aforesaid, do further present, that the said defendant above named, afterwards, to wit, on the day and year aforesaid, at the County aforesaid, and within the jurisdiction of this Court, the goods, chattels, moneys and property aforesaid, by some ill-disposed person (to the Grand Jurors aforesaid as yet unknown) then lately before

feloniously and burglariously stolen, taken and carried away, feloniously, unjustly and for the sake of wicked gain did receive and have; the said defendant above named, then and there well knowing the said goods, chattels, moneys and property aforesaid to have been feloniously stolen, taken and carried away: contrary to the form of the Act of General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

John H. Maurer, District Attorney.

[fol. 118] Witnesses: Detc. Flanagan 106, Off. Boyle, Det. Duffy 64, P. S. Police, Devon Barracks, Devon, Pa. Steve Salata, Warwick Settlement #102, R. D. #1, Pottstown, Pa. Asher Davidson, 6249 Mulberry St. Scene of Crime: 6249 Mulberry St. Bail, $——. C. Connor, Thos. Magistrate.

[Endorsed:] No. 251. July Sessions, 1943. Commonwealth vs. Francis Gryger, 102 Warwick Settlement #102, R. D. #1, Pottstown, Pa. Burglary. Receiving Stolen Goods. July 21, 1943. True Bill. Sara Noll Lefever, Foreman. 7/26/43. The Defendant being arraigned, plead Guilty 2nd Count. Dist. Atty. sim. et issue. Verdict, 7/26/43. Sentence, not less than (2½) years nor more than (5) years at separate and solitary confinement in the Eastern State Penitentiary to be computed from after unexpired sentence on Bill 1046, April 1937. By the Court, H. S. McDevitt, Judge.

Jul. 26, 1943, 653.

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[fol. 119] In the Court of Oyer and Terminer and General Jail Delivery and Quarter Sessions of the Peace, for the County of Philadelphia, July Sessions, 1943

Bill of Indictment

County of Philadelphia, ss:

The Grand Inquest of the Commonwealth of Pennsylvania, inquiring for the County of Philadelphia, upon their respective oaths and affirmations, do present, That Francis Gryger, late of the said county, yeoman, on the nineteenth day of May, in the year of our Lord one thousand nine hundred and forty-three at the County aforesaid, and within

the jurisdiction of this Court, with force and arms, etc., the building and dwelling then and there situate of one Roy Ries, unlawfully, wilfully, maliciously, feloniously and burglariously did enter with intent to commit a felony, to wit, with intent the goods, chattels moneys and property of the said Roy Ries, in said building and dwelling then and there being, feloniously and burglariously to steal, take and carry away; and then and there in said building and dwelling, certain property, to wit, two Rings, together of the value of one hundred and sixty-two dollars, and one Wrist Watch, of the value of thirty dollars, altogether, of the value of one hundred and ninety-two dollars, of the goods, chattels, moneys and property of the said Roy Ries, then and there being found, feloniously and burglariously did steal, take and carry away: contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

And the Grand Inquest aforesaid upon their oaths and affirmations aforesaid, do further present, That the said defendant above named, afterwards, to wit, on the day and year aforesaid, at the County aforesaid, and within the jurisdiction of this Court, the goods, chattels, moneys and property aforesaid, by some ill-disposed person (to the Grand Jurors aforesaid as yet unknown) then lately before feloniously and burglariously stolen, taken and carried away, feloniously, unjustly and for the sake of wicked gain did receive and have; — the said defendant — above named, then and there fell knowing the said goods, chattels, moneys and property aforesaid to have been feloniously stolen, taken and carried away: contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

John H. Maurer, District Attorney.

[fols. 120-121] [Endorsed:] No. 252 July Sessions, 1943. Commonwealth vs. Francis Gryger. #102 Warwick Settlement R. D. #1, Pottstown, Pa. Burglary; Receiving Stolen Goods. July 21, 1943. True Bill. Sara Noll Lefevre, Foreman. 7/26/43: The Defendant being arraigned, plead Guilty 2d Count. Dist. Atty. sim. et issue. Verdict, 7/26/43. Sentence not less than (2½) years nor more than (5) years at separate and solitary confinement in the

Eastern State Penitentiary, to be computed from after sentence on Bill 251 July, 1943. By the Court, H. S. McDevitt, Judge. Witnesses: Detc. Flanagan 106, Det. Duffy 64, Off. Boyle, P. S. Police Devon Barracks, Devon, Pa. Steve Salata, #102b Warwick Settlement, R. D. #1, Pottstown, Pa. Roy Ries, 6837 Horrock St. Scene of Crime: 6837 Horrocks St. Bail, $——: C. Costs, $——. Connor, Thos., Magistrate.

[fol. 122] In the Court of Oyer and Terminer and General Jail Delivery and Quarter Sessions of the Peace, for the County of Philadelphia, July Sessions, 1943.

Bill of Indictment

County of Philadelphia, ss:

The Grand Inquest of the Commonwealth of Pennsylvania, inquiring for the County of Philadelphia, upon their respective oaths and affirmations, do present, That Francis Gryger, late of the said county, yeoman, on the first day of May, in the year of our Lord one thousand nine hundred and forty-three at the County aforesaid, and within the jurisdiction of this Court, with force and arms, etc., the building and dwelling then and there situate of one George Reidel, unlawfully, wilfully, maliciously, feloniously and burglariously did enter with intent to commit a felony, to wit, with intent the goods, chattels, moneys and property of the said George Reidel, in said building and dwelling then and there being, feloniously and burglariously to steal, take and carry away; and then and there in said building and dwelling, certain property, to wit, one Wrist Watch, of the value of fifty-five dollars, one Camera, of the value of twenty-three dollars, one Leather Case, of the value of five dollars, and the sum of one hundred and forty-five dollars, in lawful money of the United States, of the value of one hundred and forty-five dollars, altogether, of the value of two hundred and twenty-eight dollars, of the goods, chattels, moneys and property of the said George Reidel, then and there being found, feloniously and burglariously did steal, take and carry away: contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

And the Grand Inquest aforesaid, upon their oaths and affirmations aforesaid, to further present, That the said defendant above named, afterwards, to wit, on the day and year aforesaid, at the County aforesaid, and within the jurisdiction of this Court, the goods, chattels, moneys and property aforesaid, by some ill-disposed person (to the Grand Jurors aforesaid as yet unknown) then lately before feloniously and burglariously stolen, taken and carried away, feloniously, unjustly and for the sake of wicked gain did receive and have; the said defendant above named, then and there well knowing the said goods, chattels, moneys and property aforesaid to have been feloniously stolen, taken and carried away: contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

John H. Maurer, District Attorney.

[fol. 123] [Endorsed:] No. 253. July Sessions, 1943. Commonwealth vs. Francis Gryger, #102 Warwick Settlement, R. D. # 1, Pottstown, Pa. Burglary; Receiving Stolen Goods. July 21, 1943. True Bill. Sara Noll Lefever, Foreman. 7/26/43. The Defendant being arraigned, plead Guilty 2nd Count. Dist. Atty. sim et issue. 7/26/43. Sentence, on bills 251-252. Witnesses: Detc. Flanagan 106. Det. Duffy 64. Off. Boyle, P. S. Police, Devon Barracks, Devon, Pa. Steve Salata, #102 Warwick Settlement, R. D. #1, Pottstown, Pa. George Reidel, 6312 Jackson St. Scene of Crime: 6312 Jackson St. Bail, $——. C. Costs, &——. Connor, Thos., Magistrate.

[fol. 124] In the Court of Oyer and Terminer and General Jail Delivery and Quarter Sessions of the Peace, for the County of Philadelphia

Bill of Indictment

July Sessions, 1943.

County of Philadelphia, ss:

The Grand Inquest of the Commonwealth of Pennsylvania, inquiring for the County of Philadelphia, upon their respective oaths and affirmations, do present, That Francis

Gryger, late of the said county, yeoman, on the twelfth day of May, in the year of our Lord one thousand nine hundred and forty-three at the County aforesaid, and within the jurisdiction of this Court with force and arms, etc., the building and dwelling then and there situate of one Joseph Godfrey, unlawfully, wilfully, maliciously, feloniously and burglariousy did enter with intent to commit a felony, to wit, with intent the goods, chattels, moneys and property of the said Joseph Godfrey, in said building and dwelling then and there being, feloniously and burglariously to steal, take and carry away; and then and there in said building and dwelling, certain property, to wit, one Class Ring, of the value of six dollars, and the sum of one hundred and fifty-nine dollars, in lawful money of the United States, of the value of one hundred and fifty-nine dollars, altogether, of the value of one hundred and sixty-five dollars, of the goods, chattels, moneys and property of the said Joseph Godfrey, then and there being found, feloniously and burglariously did steal, take and carry away: contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

And the Grand Inquest aforesaid, upon their oaths and affirmations aforesaid, do further present, That the said defendant above named, afterwards, to wit, on the day and year aforesaid, at the County aforesaid, and within the jurisdiction of this Court, the goods, chattels, moneys and property aforesaid, by some ill-disposed person (to the Grand Jurors aforesaid as yet unknown) then lately before feloniously and burglariously stolen, taken and carried away, feloniously, unjustly and for the sake of wicked gain did receive and have; the said defendant above named, then and there well knowing the said goods, chattels, moneys and property aforesaid to have been feloniously stolen, taken and carried away: contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

John H. Maurer, District Attorney.

[fol. 125] Witnesses: Detc. Flanagan 106, Det. Duffy 64, Off. Boyle, P. S. Police, Devon Barracks, Devon, Pa. Steve

Salata, #102 Warwick Settlement, R.D. #1, Pottstown, Pa. Joseph Godfrey, 6301 Jackson St.

Scene of Crime: 6301 Jackson St. Connor, Thos., Magistrate.

[Endorsed:] No. 254, July Sessions, 1943. Commonwealth vs. Francis Gryger, #102 Warwick Settlement, R. D. #1, Pottstown, Pa. Burglary. Receiving Stolen Goods. July 21, 1943. True Bill. Sara Noll Lefever, Foreman. 7/26/43. The Defendant being arraigned, plead Guilty 2nd Count. Verdict, ——. Sentence, 7/26/43. On bills 251-252.

Jul. 26, 1943 653.

[fol. 126] In the Court of Oyer and Terminer and General Jail Delivery and Quarter Sessions of the Peace, for the County of Philadelphia.

Bill of Indictment

July Sessions, 1943.

County of Philadelphia, ss:

The Grand Inquest of the Commonwealth of Pennsylvania, inquiring for the County of Philadelphia, upon their respective oaths and affirmations, do present, That Francis Gryger, late of the said county, yeoman, on the fifteenth day of May, in the year of our Lord one thousand nine hundred and forty-three at the county aforesaid, and within the jurisdiction of this Court, with force and arms, etc., the building and dwelling then and there situate of one Juliana Mutter, unlawfully, wilfully, maliciously, feloniously and burglariously did enter with intent to commit a felony, to wit, with intent the goods, chattels, moneys and property of the said Julianna Mutter, in said building and dwelling then and there being, feloniously and burglariously to steal, take and carry away; and then and there in said building and dwelling, certain property, to wit, one Wrist Watch, of the value of ten dollars, one Ring, of the value of seven dollars, and the sum of twelve dollars, in lawful money of the United States, of the value of twelve dollars, altogether, of the value of twenty-nine dollars, of the goods, chattels, moneys and property of the said Juliana Mutter, then and there being found, feloniously and burglariously

did steal, take and carry away: contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

And the Grand Inquest aforesaid, upon their oaths and affirmations aforesaid, do further present, That the said defendant above named, afterwards, to wit, on the day and year aforesaid, at the County aforesaid, and within the jurisdiction of this Court, the goods, chattels, moneys and property aforesaid, by some ill-disposed person (to the Grand Jurors aforesaid as yet unknown) then lately before feloniously and burglariously stolen, taken and carried away, feloniously, unjustly and for the sake of wicked gain did receive and have; the said defendant above named, then and there well knowing the said goods, chattels, moneys and property aforesaid to have been feloniously stolen, taken and carried away: contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

John H. Maurer, District Attorney.

[fol. 127] Witnesses: Detc. Flanagan 106, Det. Duffy 64, Off. Boyle, P. S. Police, Devon Barracks, Devon, Pa. Steve Salata, #102 Warwick Settlement, R. D. #1, Pottstown, Pa. Julianna Mutter, 6837 Kindred St. Scene of Crime: 6837 Kindred St. Connor, Thos., Magistrate.

[Endorsed:] No. 255, July Sessions, 1943. Commonwealth vs. Francis Gryger, #102 Warwick Settlement, R. D. #1, Pottstown, Pa. Burglary. Receiving Stolen Goods. July 21, 1943. True Bill. Sara Noll Lefever, Foreman. 7/26/43. The Defendant being arraigned, plead Guilty 2nd Count. 7/26/43. Sentence on bills 251-252.

July 26, 1943 653.

[fol. 128] IN THE COURT OF OYER AND TERMINER AND GENERAL JAIL DELIVERY AND QUARTER SESSIONS OF THE PEACE, FOR THE COUNTY OF PHILADELPHIA

BILL OF INDICTMENT

July Sessions, 1943.

COUNTY OF PHILADELPHIA, ss:

The Grand Inquest of the Commonwealth of Pennsylvania, inquiring for the County of Philadelphia, upon their respective oaths and affirmations, do present, That Francis Gryger, late of the said county, yeoman, on the twenty-third day of May, in the year of our Lord one thousand nine hundred and forty-three at the County aforesaid, and within the jurisdiction of this Court, with force and arms, etc., the building and dwelling then and there situate of one Charles Maranda, unlawfully, wilfully, maliciously, feloniously and burglariously did enter with intent to commit a felony, to wit, with intent the goods, chattels, moneys and property of the said Charles Maranda, in said building and dwelling then and there being, feloniously and burglariously to steal, take and carry away; and then and there in said building and dwelling, certain property, to wit, one Radio Receiving Set, of the value of thirty-five dollars, one Class Ring, of the value of eight dollars and fifty cents, one Clock, of the value of fifteen dollars, one Necklace, of the value of fifteen dollars, two Army Insignias, together of the value of seven dollars and fifty cents, and the sum of fifteen dollars, in lawful money of the United States, of the value of fifteen dollars, altogether, of the value of ninety-six dollars, of the goods, chattels, moneys and property of the said Charles Maranda, then and there being found, feloniously and burglariously did steal, take and carry away: contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania:

And the Grand Inquest aforesaid, upon their oaths and affirmations aforesaid, do further present, That the said defendant above named, afterwards, to wit, on the day and year aforesaid, at the County aforesaid, and within the jurisdiction of this Court, the goods, chattels, moneys and property aforesaid, by some ill-disposed person (to the Grand Jurors aforesaid as yet unknown) then lately before feloniously and burglariously stolen, taken and carried

away, feloniously, unjustly and for the sake of wicked gain did receive and have; the said defendant above named, then and there well knowing the said goods, chattels, moneys and property aforesaid to have been feloniously stolen, taken and carried away: contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

John H. Maurer, District Attorney.

[fol. 129] Witnesses: Detc. Flanagan 106, Detc. Duffy 64, Off. Boyle, P. S. Police, Devon Barracks, Devon, Pa. Steve Salata, #102 Warwick Settlement, R. D. #1, Pottstown, Pa. Charles Maranda, 3842 "K" St.

Scene of Crime: 3842 "K" St. Bail, $——. C. Connor, Thos., Magistrate.

[Endorsed:] No. 256. July Sessions, 1943. Commonwealth vs. Francis Gryger, 102 Warwick Settlement, R. D. #1, Pottstown, Pa. Burglary. Receiving Stolen Goods. July 21, 1943. True Bill. Sara Noll Lefever, Foreman. 7/26/43. The Defendant being arraigned, plead Guilty 2nd Count. 7/26/43. Sentence on bills 251-252.

July 26, 1943 653.

[fol. 129a] In the Court of Oyer and Terminer and General Jail Delivery and Quarter Sessions of the Peace, for the County of Philadelphia, July Sessions, 1943

Bill of Indictment

County of Philadelphia, ss:

The Grand Inquest of the Commonwealth of Pennsylvania, inquiring for the County of Philadelphia, upon their respective oaths and affirmations, do present, That Francis Gryger, late of the said county, yeoman, on the twenty-fourth day of May, in the year of our Lord one thousand nine hundred and forty-three at the County aforesaid, and within the jurisdiction of this Court, with force and arms, etc., the building and dwelling then and there situate of Catherine Pinchley, unlawfully, wilfully, maliciously, feloniously and burglariously did enter with intent to commit a felony, to wit, with intent the goods, chattels, moneys and

property of the said Catherine Pinchely, in said building and dwelling then and there being, feloniously and burglariously to steal, take and carry away; and then and there in said building and dwelling, certain property, to wit, three Wrist Watches, together of the value of seventy-five dollars, one Ladies Ring, of the value of three dollars, one Lavalier, of the value of twenty-five dollars, one String of Pearls, of the value of six dollars, one Brooch, of the value of five dollars, and one three piece Suit, of the Value of twenty-two dollars, and a number of United States War Savings Stamps, of the value of seventeen dollars and seventy-five cents, altogether, of the value of one hundred and fifty-three dollars and seventy-five cents, moneys and property of the said Catherine Pinchley, then and there being found, feloniously and burglariously did steal, take and carry away: contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

And the Grand Inquest aforesaid, upon their oaths and affirmations aforesaid, do further present, That the said defendant above named, afterwards, to wit, on the day and year aforesaid, at the County aforesaid, and within the jurisdiction of this Court, the goods, chattels, moneys and property aforesaid, by some ill-disposed person (to the Grand Jurors aforesaid as yet unknown) then lately before feloniously and burglariously stolen, taken and carried away, feloniously, unjustly and for the sake of wicked gain did receive and have; the said defendant above named, then and there well knowing the said goods, chattels, moneys and property aforesaid to have been feloniously stolen, taken and carried away: Contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

John H. Maurer, District Attorney.

Witnesses: Detc. Flanagan 106; Det. Duffy 64; Off. Boyle; P. S. Police, Devon Barracks, Devon, Pa., Steve Salata, Warwick Settlement #102, R. D. #1, Pottstown, Pa.; Catherine Pinchley, 430 W. Airdrie St. Scene of Crime: 430 W. Airdrie St. Connor, Thos., Magistrate.

[Endorsed:] No. 257. July Sessions, 1943. Commonwealth vs. Francis Gryger, 102 Warwick Settlement, R. D.

#1, Pottstown, Pa. Burglary, Receiving Stolen Goods. July 21, 1943. True Bill. Sara Noll Lefever, Foreman. 7/26/43. The Defendant being arraigned, plead Guilty 2nd Count. —— —— Dist. Atty. sim. et issue. Verdict, — 7/26/43. Sentence on bills 251-252.

[fol. 129b] IN THE COURT OF OYER AND TERMINER AND GENERAL JAIL DELIVERY AND QUARTER SESSIONS OF THE PEACE, FOR THE COUNTY OF PHILADELPHIA, JULY SESSIONS, 1943

BILL OF INDICTMENT

COUNTY OF PHILADELPHIA, ss:

The Grand Inquest of the Commonwealth of Pennsylvania, inquiring for the County of Philadelphia, upon their respective oaths and affirmations, do present, That Francis Gryger, late of the said county, yeoman, on the first day of June, in the year of our Lord one thousand nine hundred and forty-three at the County aforesaid, and within the jurisdiction of this Court, with force and arms, etc., the building and dwelling then and there situate of Pasquale Tanorado unlawfully, wilfully, maliciously, feloniously and burglariously did enter with intent to commit a felony, to wit, with intent the goods, chattels, moneys and property of the said Pasquale Tanorado in said building and dwelling then and there being, feloniously and burglariously to steal, take and carry away; and then and there in said building and dwelling certain property, to wit, a gold ring, of the value of twenty-four dollars, a necklace, of the value of twenty-nine dollars and a bracelet, of the value of ten dollars; altogether, of the value of sixty-three dollars, of the goods, chattels, moneys and property of the said Pasquale Tanorado then and there being found, feloniously and burglariously did steal, take and carry away: contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

And the Grand Inquest aforesaid, upon their oaths and affirmations aforesaid, do further present, That the said defendant above named, afterwards, to wit, on the day and year aforesaid, at the County aforesaid, and within the jurisdiction of this Court, the goods, chattels, moneys

and property aforesaid, by some ill-disposed person (to the Grand Jurors aforesaid as yet unknown) then lately before feloniously and burglariously stolen, taken and carried, away feloniously, unjustly and for the sake of wicked gain did receive and have; the said defendant above named, then and there well knowing the said goods, chattels, moneys and property aforesaid to have been feloniously stolen, taken and carried away: contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

John H. Maurer, District Attorney.

Witnesses: Det. Flanagan, 106; Duffy, 64; Off. O'Boyle, P. S. Police, Devon Barracks, Devon, Pa.; Steve Salata, Warwick Settlement, #102 R. D. #1, Pottstown, Pa.; Pasquale Tanarado, 4405 Cottman St. Scene of Crime: 4405 Cottman St. Bail, $—. Costs, $—. Thos. Connor, Magistrate.

[Endorsed:], No. 258. July Sessions, 1943. Commonwealth vs. Francis Gryger, 102 Warwick Settlement, R. D. #1, Pottstown, Pa. Burglary; Receiving Stolen Goods. July 21, 1943. True Bill. Sara Noll Lefever, Foreman. 7/26/43. The Defendant being arraigned, plead guilty 2nd Count. — —, Dist. Atty. sim. et issue. Verdict, —. Sentence, 7/26/43. on bills 251-252.

Jul. 26, 1943 653.

[fol. 130] In the Court of Oyer and Terminer and General Jail Delivery and Quarter Sessions of the Peace, for the County of Philadelphia, July Sessions, 1943

Bill of Indictment

County of Philadelphia, ss:

The Grand Inquest of the Commonwealth of Pennsylvania, inquiring for the County of Philadelphia, upon their respective oaths and affirmations, do present, That Francis Gryger, late of the said county, yeoman, on the fifteenth day of May, in the year of our Lord one thousand nine hundred and forty-three at the County aforesaid, and within the jurisdiction of this Court, with force and arms, etc., the building and dwelling then and there situate of Julius Her-

bott unlawfully, wilfully, maliciously, feloniously and burglariously did enter with intent to commit a felony, to wit, with intent the goods, chattels, moneys and property of the said Julius Herbott in said building and dwelling then and there being, feloniously and burglariously to steal, take and carry away; and then and there in said building and dwelling certain property, to wit, two bracelets, together of the value of twenty dollars, of the goods, chattels, moneys and property of the said Julius Herbott then and there being found, feloniously and burglariously did steal, take and carry away: contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

And the Grand Inquest aforesaid, upon their oaths and affirmations aforesaid, do further present, That the said defendant above named, afterwards, to wit, on the day and year aforesaid, at the County aforesaid, and within the jurisdiction of this Court, the goods, chattels, moneys and property aforesaid, by some ill-disposed person (to the Grand Jurors aforesaid as yet unknown) then lately before feloniously and burglariously stolen, taken and carried away, feloniously, unjustly and for the sake of wicked gain did receive and have; the said defendant above named, then and there well knowing the said goods, chattels, moneys and property aforesaid to have been feloniously stolen, taken and carried away: contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

John H. Maurer, District Attorney.

[fol. 131] Wtinesses: Det. Flanagan, 106; Duffy, 64; Off. O'Boyle, P. S. Police, Devon Barracks, Devon, Pa.; Steve Salata, Warwick Settlement 102, R. D. #1, Pottstown, Pa., Julius Herbott, 951 Arrott St. Scene of Crime: 951 Arrott St. Bail, &—. Costs, &—. Thos. Connor, Magistrate.

[Endorsed:] No. 259. July Sessions, 1943. Commonwealth vs. Francis Gryger, 102 Warwick Settlement, R. D. #1, Pottstown, Pa. Burglary; Receiving Stolen Goods. July 21, 1943. True Bill. Sara Noll Lefever, Foreman. 7/26/43. The Defendant being arraigned, plead guilty 2nd Count — — Dist. Atty. sim. et issue. Verdict, —. Sentence. 7/26/43, on bills 251-252.

[fol. 132] IN THE COURT OF OYER AND TERMINER AND GENERAL JAIL DELIVERY AND QUARTER SESSIONS OF THE PEACE, FOR THE COUNTY OF PHILADELPHIA, JULY SESSIONS, 1943

BILL OF INDICTMENT

COUNTY OF PHILADELPHIA, SS:

The Grand Inquest of the Commonwealth of Pennsylvania, inquiring for the County of Philadelphia, upon their respective oaths and affirmations, do present, that Francis Gryger, late of the said county, yeoman, on the nineteenth day of May, in the year of our Lord one thousand nine hundred and forty-three at the County aforesaid, and within the jurisdiction of this Court, with force and arms, etc., the building and dwelling then and there situate of Paul Posey unlawfully, wilfully, maliciously, feloniously and burglariously did enter with intent to commit a felony, to wit, with intent the goods, chattels, moneys and property of the said Paul Posey in said building and dwelling then and there being, feloniously and burglariously to steal, take and carry away; and then and there in said building and dwelling certain moneys and property, to wit, a ration book, of the value of one dollar and the sum of ten dollars, in lawful money of the United States, of the value of ten dollars; together of the value of eleven dollars, of the goods, chattels, moneys and property of the said Paul Posey then and there being found, feloniously and burglariously did steal, take and carry away: contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

And the Grand Inquest aforesaid, upon their oaths and affirmations aforesaid, do further present, that the said defendant above named, afterwards, to wit, on the day and year aforesaid, at the County aforesaid, and within the jurisdiction of this Court, the goods, chattels, moneys and property aforesaid, by some ill-disposed person (to the Grand Jurors aforesaid as yet unknown) then lately before feloniously and burglariously stolen, taken and carried away, feloniously, unjustly and for the sake of wicked gain did receive and have; the said defendant above named, then and there well knowing the said goods, chattels, moneys and property aforesaid to have been feloniously stolen, taken and carried away: contrary to the form of the Act of

the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

John H. Maurer, District Attorney.

[fol. 133] Witnesses: Det. Flanagan, 106; Duffy, 64; Off. O'Boyle, P. S. Police, Devon Barracks, Devon, Pa.; Steve Salata, Warwick Settlement 102, R. D. #1, Pottstown, Pa.; Paul Posey, 2123 E. Auburn St. Scene of Crime: 2123 E. Auburn St. Bail, $——. C. T. Connor, Magistrate.
[Endorsed:] No. 260. July Sessions, 1943. Commonwealth vs. Francis Gryger, 102 Warwick Settlement, R. D. #1, Pottstown, Pa. Burglary. Receiving Stolen Goods. July 21, 1943. True Bill. Sara Noll Lefever, Foreman. 7/26/43. The Defendant being arraigned, plead guilty 2nd Count. Dist. Atty. sim. et issue. Verdict, —. Sentence 7/26/43, on bills 251-252.
Jul. 26, 1943, 653.

[fol. 134] In the Court of Oyer and Terminer and General Jail Delivery and Quarter Sessions of the Peace, for the County of Philadelphia, July Sessions, 1943

Bill of Indictment

County of Philadelphia, ss:

The Grand Inquest of the Commonwealth of Pennsylvania, inquiring for the County of Philadelphia, upon their respective oath and affirmations, do present, That Francis Gryger, late of the said county, yeoman, on the fifth day of May, in the year of our Lord one thousand nine hundred and forty-three at the County aforesaid, and within the jurisdiction of this Court, with force and arms, etc., the building and dwelling then and there situate of Louis Schwartz, unlawfully, wilfully, maliciously, feloniously and burglariously did enter with intent to commit a felony, to wit, with intent the goods, chattels, moneys and property of the said Louis Schwartz in said building and dwelling then and there being, feloniously and burglariously to steal, take and carry away; and then and there in said building and dwelling, certain moneys and property, to wit, eight rings, of the value of five hundred and ninety-two dollars, two wristwatches, of the value of seventy dollars; a string of pearls,

of the value thirty-eight dollars, a stick pin, of the value of eighty dollars, United States Defense Stamps, of the value of twenty-five dollars; a brooch, of the value of ten dollars; a bracelet, of the value of fifteen dollars; eight pairs of ladies' hose, of the value of twelve dollars and the sum of eight dollars, in lawful money of the United States, of the value of eight dollars; together of the value of eight hundred and fifty dollars, of the goods, chattels, moneys and property of the said Louis Schwartz, then and there being found, feloniously and burglariously did steal, take and carry away; contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

And the Grand Inquest aforesaid, upon their oaths and affirmations aforesaid, do further present, That the said defendant above named, afterwards, to wit, on the day and year aforesaid, at the County aforesaid, and within the jurisdiction of this Court, the goods, chattels, moneys and property aforesaid, by some ill-disposed person (to the Grand Jurors aforesaid as yet unknown) then lately before feloniously and burglariously stolen, taken and carried away, feloniously, unjustly and for the sake of wicked gain did receive and have; the said defendant above named, then and there well knowing the said goods, chattels, moneys and property aforesaid to have been feloniously stolen, taken and carried away: contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

John H. Maurer, District Attorney.

[fol. 135] [Endorsed:] No. 261. July Sessions, 1943. Commonwealth vs. Francis Gryger, 102 Warwick Settlement, R. D. #1, Pottstown, Pa. Burglary; Receiving Stolen Goods. July 21, 1943. True Bill. Sara Noll Lefever, Foreman. 7-26-43. The Defendant being arraigned, plead Guilty 2nd Count. ——, Dist Atty. sim. et issue. Verdict —. 7-26-43. Sentence, on bill 251-252. Witnesses: Det. Flanagan, 106. Duffy, 64. Off. O'Boyle, P. S. Police, Devon Barracks, Devon Pa. Steve Salata, Warwick Settlement 102, R. D. #1, Pottstown, Pa. Louis Schwartz, 4048 Roosevelt Blvd. Scene of Crime: 4048 Roosevelt Blvd. Bail, $—. Costs, $—. T. Connor, Magistrate.

[fol. 136] IN THE COURT OF OYER AND TERMINER AND GENERAL JAIL DELIVERY AND QUARTER SESSIONS OF THE PEACE, FOR THE COUNTY OF PHILADELPHIA, JULY SESSIONS, 1943

BILL OF INDICTMENT

COUNTY OF PHILADELPHIA, SS:

The Grand Inquest of the Commonwealth of Pennsylvania, inquiring for the County of Philadelphia, upon their respective oaths and affirmations, do present, That Francis Gryger, late of the said county, yeoman, on the first day of June, in the year of our Lord one thousand nine hundred and forty-three at the County aforesaid, and within the jurisdiction of this Court, with force and arms, etc., the building and dwelling then and there situate of Matthew Tomon unlawfully, wilfully, maliciously, feloniously and burglariously did enter with intent to commit a felony, to wit, with intent the goods, chattels, moneys and property of the said Matthew Tomon in said building and dwelling then and there being, feloniously and burglariously to steal, take and carry away; and then and there in said building and dwelling certain moneys and property, to wit, the sum of sixty dollars, in lawful money of the United States, of the value of sixty dollars, a diamond ring, of the value of ninety dollars, a gold lavalier, of the value of thirty-five dollars; one, three piece, suit, of the value of twenty-five dollars, four pair of trousers, of the value of forty dollars, one electric razor, of the value of twelve dollars and one suit case, of the value of five dollars; together of the value of two hundred and sixty-seven dollars, of the goods, chattels, moneys and property of the said Matthew Tomon then and there being found, feloniously and burglariously did steal, take and carry away: contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

And the Grand Inquest aforesaid, upon their oaths and affirmations aforesaid, do further present, That the said defendant above named, afterwards, to wit, on the day and year aforesaid, at the County aforesaid, and within the jurisdiction of this Court, the goods, chattels, moneys and property aforesaid, by some ill-disposed person (to the Grand Jurors aforesaid as yet unknown) then lately before feloniously and burglariously stolen, taken and carried

away feloniously, unjustly and for the sake of wicked gain did receive and have; the said defendant above named, then and there well knowing the said goods, chattels, moneys and property aforesaid to have been feloniously stolen, taken and carried away: contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

John H. Maurer, District Attorney.

[fol. 137] Scene-1641 E. Luzerne St.

Witnesses: Detc. Flanagan, 106; Detc. Duffy, 64; George Reidel, 6312 Jackson St.; Louis Schwartz, 4048 Roosevelt Blvd.; Joseph Godfrey, 6301 Jackson St.; Juliana Mutter, 6837 Kindred St.; Dr. Julius W. Herbott, 951 Arrott St.; Paul Posey, 2123 E. Auburn St.; Roy L. Ries, 837 Horrocks St.; Charles Maranda, 3842 "K" St.; Catherine Pinchley, 430 W. Airdrie St.; Asher Davidsoh, 6249 Mulberry St.; Pasquale Tanoreda, 4405 Cottman St.; Matthew Tomon, 1641 E. Luzerne St.; Steve Salata, Warwick Settlement #102, R. D. #1, Pottstown, Pa.; Off. O'Boyle, P. S. Police, Devon Barracks, Devon, Pa. Bail: —. Costs, & —. Connor, Thos., Magistrate.

[Endorsed:] No. 262. July Session, 1943. Commonwealth vs. Francis Gryger, 102 Warwick Settlement, R. D. #1, Pottstown, Pa. Burglary; Receiving Stolen Goods. July 21, 1943. True Bill. Sara Noll Lefever, Foreman. 7/26/43. The Defendant being arraigned, plead guilty 2nd Count. — Dist. Atty. sim. et issue. Verdict, —. Sentence 7/26/43 on bills 251-252.

Jul. 26, 1943, 653.

[fol. 138] COURT OF OYER & TERMINER & GENERAL JAIL DELIVERY, JUNE SESSIONS, 1943

No. 461

COMMONWEALTH,

vs.

EDWARD GRYGIER, alias FRANK JACKSON, alias JOSEPH McGEE, alias FRANK GRYGEIA, alias FRANCIS GUGER

Information

Philadelphia, Pa., November 27th, 1944.

Before Honorable Joseph L. Kun, J.

Present: Franklin E. Barr, Assistant District Attorney, for the Commonwealth.

Stenographer's Transcript

[fol. 139] Mr. Barr: In this matter, charging the defendant with being a fourth offender, the information was filed on the 4th of May of this year, and the defendant was served on the 9th day of May; both papers are before your Honor.

I ask that the information be read to him, so that he may answer whether or not he is the man named in there, which is required by the Act. You will have to read the whole information to him, Mr. Beaston.

The Crier: "1. Be it remembered by this Information that I, John H. Maurer, District Attorney of the County of Philadelphia, State of Pennsylvania, in pursuance of an Act of Assembly of the said Commonwealth, entitled 'The Penal Code of 1939, June 24th, P. L. 872', which by section 1108 provides for punishment for second and subsequent convictions, do accuse Edward Grygier, alias Frank Jackson, alias Joseph McGee, alias Francis Geyger, alias Francis Grygeia, alias Francis Guger, above named, who under and by the name of Francis Guger, within two years last past, to wit, on February 25, 1944, before the Honorable Harry S. McDevitt, a Judge of the Court of Oyer and Terminer and General Jail Delivery of the County of Philadel-

[fol. 140] phia, was duly convicted of the crime of burglary perpetrated upon the dwelling of one Raymond Wilde on or about June 20, 1943, charged against him in a certain indictment theretofore duly presented and found true at a Grand Inquest of the said Commonwealth, inquiring for said County of Philadelphia as of June Sessions, 1943, No. 461, as in said indictment particularly set forth, upon which verdict and judgment was duly entered on the 25th day of February, A. D. 1944 that the said defendant undergo an imprisonment in the Eastern State Penitentiary for a term of not less than five nor more than ten years after the expiration of a sentence he was then serving, pursuant to which judgment he is now there incarcerated of having been previously convicted and sentenced of certain other crimes three or more times, to wit, the crimes of robbery and burglary, that is to say:

2. That the said defendant under the name of Edward Grygier, on March 17th, 1927, was convicted in the Circuit Court of Harford County, Maryland, of burglary, and sentenced to serve one year at the Maryland House of Correction from March 17th, 1927 until January 17th, 1928, his discharge therefrom being [fol. 141] absolute.

3. That the said defendant at Philadelphia County, under the name of Edward Grygier, charged with burglary of the dwelling of Walter Allen in an indictment duly presented and found true by the Grand Jury of Philadelphia County as of April Sessions, 1929, No. 1107, on which he was convicted of said crime as therein set forth on April 23, 1929, upon which verdict, judgment was duly entered the same day by the Honorable Horace Stern, a Judge of said Court, that the defendant undergo imprisonment in Huntingdon Reformatory, in pursuance to which the defendant was confined until September 20, 1930.

4. That the said defendant at Philadelphia County, under the name of Frank Jackson, alias Grygier, in an indictment duly presented and found true by the Grand Jury of Philadelphia County as of November Sessions, 1930, No. 1679, was charged with robbery,

being armed with an offensive weapon with intent to rob one Paul Grotzinger, and was duly convicted (plead guilty) of said crime as therein set forth on November 28, 1930, upon which verdict (plea) judgment was duly entered the same day by the Honorable Otto R. Heilig-[fol. 142] man, a Judge of said Court, that the defendant undergo an imprisonment in the Eastern State Penitentiary of not less than five years nor more than ten years in pursuance of which the defendant was there confined until May 28, 1936 when he was discharged on parole.

5. That the said defendant at Philadelphia County under the name of Edward Grygier, alias Frank Jackson, alias Joseph McGee, in an indictment duly presented and found true by the Grand Jury of Philadelphia County as of April Sessions, 1937, No. 1046, charging said defendant with burglary, entering in the night without breaking with intent to commit a felony, and receiving stolen goods of one Edward O'Neill, on April 28, 1937, was duly convicted (plead guilty) of receiving stolen goods, and upon which verdict (plea) judgment was duly entered on the same day by the Honorable Raymond MacNeille, a judge of said court, that the defendant undergo an imprisonment of not less than eighteen months nor more than three years in the Eastern State Penitentiary at the expiration of [fol. 143] the unexpired parole sentence imposed on November 28th, 1930 on Bill No. 1679 of November Sessions, 1930, and that he was confined there until April 29, 1943, when he was paroled.

Dated, Philadelphia, Pennsylvania, the first day of May, A. D. 1944.

John H. Maurer, District Attorney of Philadelphia County."

"COMMONWEALTH OF PENNSYLVANIA,
County of Philadelphia:

John H. Maurer, being duly sworn according to law, deposes and says that he is the District Attorney of Philadelphia County and that the facts set forth in the foregoing Information are true and correct to the best of his knowledge, information and belief.

John H. Maurer."

Mr. Barr: Your Honor, he is required to answer whether or not he is the same person as charged.

By the Court (addressing defendant):

Q. Are you the person referred to in the information of the District Attorney, just read to you in these names, or any of them, Edward Grygier, alias Frank Jackson, alias Joseph McGee, alias Francis Geyger, alias Francis Grygeia, alias Francis Guger?

A. I am—my name is only Frank Grygier, and Frank Jackson, and Joe McGee; as far as the other names are [fol. 144] concerned, they are all the same names, the——

Q. A difference in spelling, you mean?

A. That's right, your Honor, just a difference in spelling.

Q. I have already asked you whether you are the person named?

A. Yes, sir, I am.

Q. You have answered now that you are?

A. Yes, sir.

Q. And are you the same person referred to in the various offenses that were read to you by the Crier, as having been committed by you, under one or another of these names?

A. Yes, your Honor.

Mr. Barr: Then, your Honor, I move for sentence, but before that, I will offer in evidence the indictments with the sentences on them.

The Act of Assembly requires that the defendant shall be guilty of certain offenses named in the Act, of which the offenses charged are those offenses, and requires that the offenses shall be committed within five years of the former conviction, or within five years after he gets out of jail; so that is the thing that has to be covered in our sentences.

[fol. 145] Your Honor, I offer in evidence an exemplified copy of the record of the Harford County Court, of the State of Maryland, showing the finding of an indictment on February 16th, 1927, and the plea of guilty by the defendant on March 17th, and the sentence on the same day, March 17th, 1927 to the Maryland House of Correction for one year.

(Marked Commonwealth's Exhibit No. 1, copied as indexed.)

I offer in evidence a letter received from the Maryland House of Correction in re: Grygier, stating that on this sentence imposed on March 17th, 1927, he was confined to the Maryland House of Correction until January 17th, 1928, when he was discharged absolutely and not on parole; so that the next sentence—there must be a conviction within five years from January 17th, 1928.

(Marked Commonwealth's Exhibit 2, copied as indexed.)

I offer in evidence indictment of Philadelphia County charging the defendant, under the name of Edward Grygier, as of April Sessions, 1929, No. 1107, charged with burglary, entering in the night without breaking and intent to commit a felony and receiving stolen goods, in which he was convicted on April 23rd, 1929; on the same day sentenced by [fol. 146] Judge Stern to Huntingdon Reformatory.

(Marked Commonwealth's Exhibit No. 3, copied as indexed.)

I offer in evidence, in view of that sentence by Judge Stern, a photostatic copy of the commitment, together with photostatic copy of the parole agreement covering Edward Grygier, on which he was paroled as of September 20th, 1930.

(Commitment marked Commonwealth's Exhibit 4; parole agreement marked Commonwealth's Exhibit No. 5, copied as indexed.)

I offer in evidence bill of indictment of Philadelphia County, November Sessions, 1930, No. 1670, charging Frank Jackson, alias Grygier, with the first count, robbery, being armed with an offensive weapon and the second count, assault, being armed with an offensive weapon, with an intent to rob, together with bill of indictment, of November Sessions, 1930, No. 1680, charging him with entering, with intent to rob, to both of which bills he pleaded guilty and was sentenced on Bill 1679, to 5 to 10 years in the Eastern State Penitentiary by his Honor Judge Heiligman.

(Both bills marked Commonwealth's Exhibit 6, copied as indexed.)

Is the man from the penitentiary with the record of discharge here?

[fol. 147] THOMAS S. COLLINS, sworn:

By Mr. Barr:

Q. Have you the date of discharge?

A. I haven't any record, but I can give you the date of discharge.

Q. What is your name?

A. Thomas S. Collins.

Q. You are connected with the Eastern Penitentiary?

A. I am.

Q. In reference to this sentence which has just been put in evidence, in 1930,——

A. Yes, sir.

Q. When was he paroled?

A. He was paroled on the 28th day of May, 1936.

Mr. Barr: I offer in evidence, your Honor, the indictment found in the Philadelphia County as of April Sessions, 1937, No. 1046, charging Edward Grygier, alias Frank Jackson, alias Joseph McGee, charging him with burglary, entering in the night, without breaking, with intent to commit a felony; receiving stolen goods, to which the defendant, on April 28th, 1937, pleaded guilty to the third count, namely, receiving stolen goods, and was sentenced on the same date to 18 months to 3 years in the Eastern Penitentiary, at the expiration of his unexpired parole sentence on the former bill.

[fol. 148] He was also indicted at the same time on bill 1047, for carrying concealed deadly weapons and unlawfully carrying firearms without a license, at the time of the other, and I offer those in evidence.

(Marked Commonwealth's Exhibits 7 and 8 respectively, copied as indexed.)

By Mr. Barr:

Q. And will you tell us when he was paroled?

A. That is on Bill 1046 of April, 1937?

Q. Correct.

A. On that bill, while he was committed on the 28th of April, 1937, and returned to the Eastern Penitentiary on that date, he had an unexpired parole of 5 years to do on the previous bill of 1930; when he was returned on April 28th, 1937, instead of beginning the bill that he was sen-

tenced to on that date, he was entered or registered to serve the unexpired parole, and after the expiration of that to begin the subsequent bill of 18 months to 3 years. Now, on the previous bill, of 1930, the final discharge on that bill was on October 28th, 1941, and upon the same date he was re-entered to begin the sentence of 18 months to 3 years which was imposed by Judge MacNeille on April 28th 1937.

Q. And when was he discharged on that one?

A. On the 18 months to 3 years?

Q. Yes.

A. That is the term, I believe, he is serving now.

[fol. 149] Q. No, he has been out since then.

A. That doesn't expire, the unexpired minimum term——

Q. He ought to have been discharged on that on April 29th, 1943; wasn't he discharged then?

A. Yes, I beg pardon; he was parolled on April 29th, 1943; that's right, I beg pardon.

Mr. Barr: Your Honor, the purpose of putting in that last bill, which is not one of the offenses for which he could be charged as a fourth offender, is to show that five-year period was not exhausted, because he was in prison; I want to put that on the record so there won't be any question about that.

The Court: I understand.

Mr. Barr: The defendant was indicted as of July Sess., 1943, Philadelphia County, under the name of Francis Grygeia, on a number of bills of indictment, being bills 251 to 259, inclusive, all of which charge him with burglary and receiving stolen goods, and he pleaded guilty on those bills, to receiving stolen goods, and was sentenced on July 26th, 1943, to 2 and ½ to 5 years, on bill No. 251, at the expiration of his sentence on Bill 1046, which he was serving; and on bill 252, to two and a half to five years, at the expiration of his sentence on Bill 251, of July Sessions, by Judge Mc-[fol. 150] Devitt. This, I think he is now serving, but they are part of the receiving stolen goods bills and not committed as a felony.

He was indicted as of June Sessions, 1943, Bills 461 and 462. 461 charges burglary; 462 charges assault and battery and aggravated assault and battery on one Hoss, and the burglary is a burglary of Raymond Wills, on which burglary bill he was sentenced after a verdict of guilty, on February 25, 1944, 5 to 10 years in the Eastern State Penitentiary,

after the expiration of his present sentence; that will still pending.

Those are the four felonies that are charged against him.

The Court: That gave rise to the filing of the Information now before the Court?

Mr. Barr: Yes, sir, and he is still serving the sentence in the Penitentiary?

The Witness: Yes, sir.

Q. There are some former sentences before the last; he has not started to serve the last sentence?

A. No, he has, I believe, two sentences to serve before that.

By the Court:

Q. Before this last sentence imposed can begin, as I understand?

[fol. 151] A. Yes, sir.

By the Court (addressing defendant):

Q. What is your real name? What was your name before you adoped these various aliases?

A. Frank Grygier, the same name they have there, but I don't know how they got—I mean Frank.

By Mr. Barr:

Q. G-r-y-g-i-e-r, is that correct?

A. Correct, sir.

Mr. Barr: There's the name Frank and Edward, also known as——

The Court: Edward Grygier, and Joseph McGee, another name he had. I would like to know what your name was before you started your trouble.

The Defendant: Frank Grygier—I have a birth certificate.

Q. It is just a case of identity. You have declared in open court you are the person known by various aliases mentioned, some being merely the changes in spelling of the one name?

A. That's right.

Q. It has also been proven to the satisfaction of the Court, you are the person who has committed these four

felonies—more than four, for that matter—in the prescribed [fol. 152] period of the Statute referred to in the Information?

A. Your Honor——

Q. Have you anything to say before sentence is imposed?

A. On the sentences, not one of them that has been read has been a burglary charge whatsoever, not one sentence on that record at all, every sentence that he has read off burglary, is receiving stolen goods; if you get my evidence in my case, they had no witnesses, no prosecutor, nobody whatsoever; they didn't find the goods on me; they found them on someone else; I said I gave the goods to them; they had no witness, no prosecutor, nothing; I pleaded guilty for receiving stolen goods, having them in my possession. How do they put burglary on there, when it shouldn't be burglary, but they done it, how, I don't know; them 12 burglaries were, out of 12 burglaries that Judge McDevitt sentenced me for, there was no evidence, no prosecution whatsoever in court, and there's only four people out of the whole 12 burglaries really identified maybe one piece of antique jewelry that was taken from their place, antique jewelry, which couldn't be identified at all, being 5 and 10 cent store stuff. Where are them other 12 burglaries? They got 12 indictments; who are the people? Who are they? There is nobody in court; they can't bring any wit- [fol. 153] ness; nobody ever saw me do these things they put on me, because they picked me up and they went to the station house with reference to me, because they picked me up maybe in connection with receiving stolen goods by me, with the records they had, they put that on me, but there was no witness, no prosecutor, nothing whatever to show that was so. So that is why they had me plead not guilty on that burglary; they were tickled to death to try me on stolen goods; they had something that would stick; they knew if I was brought to trial for burglary I would beat them, because they had no case whatsoever against me. You can look at the case, your Honor; it's only 8 months, and if you can show me one prosecutor out of the 12 burglaries, I am willing to go back and serve the rest of my life in the place which I am in.

Q. Are you finished?

A. That's all I can say.

Mr. Barr: It is perfectly true those are the ones he said he pleaded guilty to.

The Court: You see it isn't within the scope of this court to re-try all your cases; the only thing we have to try is this proceeding to determine whether you are one and the same person mentioned in the indictment referred to in the Information.

[fol. 154] As to the disposition of the cases, they are matters of record, and on the basis of the record in each of these cases, and on the basis of your acknowledgment of identity, it becomes my duty, under the Act of Assembly, to treat such a case, that is to say, where a person has been found guilty the fourth time of a felony within a prescribed period, to impose the sentence required by the Act.

The Defendant: Your Honor, I beg pardon, but I have served my time for those sentences. Now, Judge McDevitt had all the power in the world to give me life in 1943, when I was brought in front of him. Now, Judge McDevitt did not give me life. He sentenced me to 5 to 10 years in the Eastern Penitentiary, after the expiration of my sentence, which I have now served, and a month later he brought me back into this courtroom again and gave me another 5 to 10 on top of that, to serve after the expiration of my parole, and 5 to 10 was given me. Now, I cannot see why I should be sentenced again for the same thing, which I have been, and I haven't done anything; I'm being tried twice for the same offense; I served my time; I have served every day, for what I have really done. Now, this way, I'm being tried over for nothing at all.

[fol. 155] The Court: No, I'll explain that to you; you're not being tried over again for offenses for which you have already been tried; neither are you being sentenced over again for the offense or any other offense. The law is that a person who has been found guilty of felony four times within the periods prescribed must be punished, because of those successive convictions. You understand this is an entirely new and different cause for punishment. You are not being tried over again.

The Defendant: I realize that.

The Court: You are not going to be sentenced over again for the offense for which you have already been tried and sentenced. This is called The Fourth Offender Act.

The Defendant: I realize that.

The Court: In other words, the law has come to this viewpoint: after a person has committed a felony and gets punished and released, then he goes back and commits similar offenses of equal gravity again, again and again, four times, each within five years of the previous one, he is so much of an enemy of society that he must be removed from the possibility of ever committing the offense again. Now, that is the law, Grygier, isn't it?

The Defendant: Yes.

[fol. 156] The Court: The Court doesn't make the law. The Court simply applies the law. That is made by the people, people make their laws through the Legislature. The Legislature of this State passed this law, and the duty of the Courts is to apply the law in the proper cases. We do not make the law. We apply the law that the Legislature, speaking for the people has found it necessary to establish as the law of the State.

The Defendant: Well, I realize that, your Honor, that the law—that there is a law like that, but I should have been sentenced the day I committed that crime, but I was also sentenced two times, three times after that. I don't think they have any authority to take me out of jail after I done that time. If Judge McDevitt sentenced me in 1943, when I was brought in front of him, he was in the right to do that; he had all the power, but I don't see no power for the law to go out and take a man out of jail after he is doing time. That doesn't show in the Statute, in the Constitution, in the laws in Harrisburg. I realize there is a law called The Fourth Offender, if I went out on the street, if I ever got arrested, they could give me life, but if the Judge did not give me life; if he gave me five to ten and then took me out and put another [fol. 157] on top of that, why he could take me out and give me life on top of that again. Therefore, I am getting sentenced three times for the same thing. Why didn't they give me life then and I would have been satisfied. Now, the time I have already served in the Penitentiary, if I get life from you, it doesn't mean a thing to me; I have to start all over again, 15 years, 20 years, before I could get a pardon, in this way I have good behavior time, but there won't be any good behavior, that would mean if I would go back now I would have a new number; my time starts today, not last year or five years, but now. It starts the day you sentence me. Who pays for

it? Whose getting that time? I'm getting a raw deal, coming up for pardon.

Mr. Barr: He doesn't understand.

The Court: I tried to make it clear.

Mr. Barr: As a matter of fact this fourth offense, under the Act, he was found guilty of on February 25th, of this year, so that we couldn't have an information required, by the Act, as a fourth offender, until after February 25th of this year.

The Court: And after sentence thereon.

Mr. Barr: Yes, and when that was imposed and brought to the attention of the District Attorney, and the Information was filed, he was given a copy of it, and be-
[fol. 158] cause of getting certain records and information and witnesses, it delayed the thing until this time.

The Court: I have to do my duty under the law. I want to correct you on one thing; you said something about you may be prevented or deprived of the opportunity of seeking a pardon or even a commutation of sentence. You are wrong about that. You may apply for a pardon tomorrow or commutation of your sentence at any time whatever. This doesn't foreclose that right on your part. I want to correct you on that. You still have the right to apply for clemency to the Board of Pardons any time that you see fit and they have a perfect right to do whatever they see fit about the matter, and we have no control over that. I want to straighten that out in your mind.

The Defendant: I realize that, your Honor.

The Court: I don't see any point in further discussion because the case seems very clear and it becomes my duty and I now pronounce sentence: that you undergo life imprisonment in the Eastern State Penitentiary, and the sentence of February 25th, 1944 is vacated in accordance with the provisions of the Act of Assembly when sentence is life imprisonment.

[fol. 159] COMMONWEALTH'S EXHIBIT No. 1

STATE,

vs.

EDWARD J. GRYGIER

February 16, 1927—Presentment for Burglary filed and Capias issued—"Cepi" Same day indictment endorsed "True Bill" filed.

February 21, 1927—A. F. Brown for Deft.

March 17, 1927—Arraigned—Rule Plea—Plea Guilty confessed.

March 17, 1927—Judgment and sentence that prisoner be confined in the Maryland House of Correction for a period of one (1) year.

March 17, 1927—Commitment made out.

Plaintiff's Costs, $ —

Defendant's Costs, $ —

[fol. 160] STATE OF MARYLAND, HARFORD COUNTY, SCT.

I Hereby Certify, that the aforegoing is a true copy of the Docket entries in the above entitled cause, taken from the Record of Proceedings of the Circuit Court for Harford County.

In Testimony Whereof, I hereto set my hand and affix the seal of the said Court, this 24th day of June A. D., 1944. (Signed) Granville C. Boyle, Clerk of the Circuit Court for Harford County. (Seal.)

DOCKET —. FOLIO —

vs.

COPY OF DOCKET ENTRIES

I, Frederick Lee Cobourn, Associate and the presiding Judge of the Circuit Court for Harford County, do certify that the foregoing Certificate and Attestation made by Granville C. Boyle, Clerk of the Circuit Court for Harford [fol. 161] County, whose name is thereto subscribed and seal of said Court affixed, are in due form and made by the proper officer.

In testimony whereof I hereto subscribe my name this 24th day of June in the year 1944. (Signed) Frederick Lee Cobourn.

STATE OF MARYLAND, HARFORD COUNTY, TO WIT:

I, Granville C. Boyle, Clerk of the Circuit Court for Harford County, do certify that the Honorable Frederick Lee Cobourn, by whom foregoing Attestation was made, and who has thereunto subscribed his name was at the time of making thereof, and still is, Associate Judge of the Circuit Court for Harford County, and now presiding therein, duly commissioned and sworn; to all whose acts, as such, full faith and credit are and ought to be given, as well in Courts of Jurisdiction as elsewhere.

In testimony whereof I hereto subscribe my name [fol. 162] and affix the seal of the Circuit Court for Harford County, this 24th day of June, 1944. (Signed) Granville C. Boyle, Clerk of the Circuit Court for Harford County. (Seal.)

COMMONWEALTH'S EXHIBIT No. 2

J. LeRoy Wright, M. D., Warden

(Coat of Arms)

MARYLAND HOUSE OF CORRECTION, JESSUPS, MARYLAND

March 27, 1944.

Re—Edward Grygier. MHC#12860

Mr. Franklin E. Barr, Assistant District Attorney, Philadelphia 7, Pa., Room 666 City Hall.

DEAR MR. BARR:

[fol. 163] I am sorry but your letter of February 29th was not turned over to me for reply and after some checking, we have finally found your man as Edward Grygier. Our old records are not very complete, but I think this is the information you desire—

Received at the Maryland House of Correction March 17, 1927 to serve one year for Burglary and was sent here by the Circuit Court of Harford County. He was released, at the expiration of his sentence on January 17, 1928, the discharge being absolute and not a parole.

Very truly yours, The Warden, By (Signed) (Mrs.) Ailsa N. Waltemyer, Record Librarian.

COMMONWEALTH'S EXHIBIT No. 3

No. 1107

APRIL SESSIONS, 1929

COMMONWEALTH

vs.

[fol. 164] EDWARD GRYGIER, 757 E. Ontario St.

Burglary.

Entering in the night without breaking, with intent to commit a felony.

Receiving stolen goods.

True bill.

(Signed) James C. Lyons, Foreman,

Apr. 22, 1939.
4/23/27. 192—

The Defendant being arraigned, plead Eo Die Not Guilty. Dist. Atty. sim. et. issue verdict Guilty and Sentenced Huntingdon Reformatory

By the Court.

(Signed) Horace Stern, J.

IN THE COURT OF OYER AND TERMINER OF THE COUNTY OF PHILADELPHIA, APRIL SESSIONS, 1929

COUNTY OF PHILADELPHIA, SS:

[fol. 165] The Grand Inquest of the Commonwealth of Pennsylvania, inquiring for the County of Philadelphia, upon their respective oaths and affirmations, do present, That Edward Grygier late of the said County, minor, on the eighteenth day of April in the year of our Lord one thousand nine hundred and twenty-nine about the hour of eleven in the night of the same day, at the county aforesaid, and within the jurisdiction of this court, with force and arms, etc., the building and dwelling house then and there situate of Walter Allen unlawfully, wilfully, maliciously, feloniously and burglariously did break and enter, with in-

tent the goods and chattels, moneys and property of him the said Walter Allen in the said building and dwelling house then and there being, feloniously and burglariously to steal, take and carry away; and then and there in the said building and dwelling house, certain property, to wit, two strings of beads, together of the value of twenty-five dollars; four suits of men's clothes, together of the value [fol. 166] of four hundred dollars; two coats, together of the value of seventy-five dollars; and four dresses, together of the value of four hundred dollars; altogether of the value of nine hundred dollars of the goods and chattels, moneys and property of him the said Walter Allen in the said building and dwelling house then and there being found, feloniously and burglariously did steal, take and carry away, contrary to the form of the act of the general assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

And the Grand Inquest aforesaid, upon their oaths and affirmations aforesaid, do further present, that the said Edward Grygier on the day and year aforesaid, at the county aforesaid, and within the jurisdiction of this court, with force and arms, etc., did about the hour of eleven in the night of the same day, unlawfully, wilfully, maliciously and feloniously enter the building and dwelling house of him the [fol. 167] said Walter Allen then and there situate, without breaking the same, with intent then and there certain property, to wit, two strings of beads, together of the value of twenty-five dollars; four suits of men's clothes, together of the value of four hundred dollars; two coats, together of the value of seventy-five dollars; and four dresses, together of the value of four hundred dollars; all together of the value of nine hundred dollars; the goods, and chattels, moneys and property of him the said Walter Allen to feloniously steal, take and carry away contrary to the form of the act of the general assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

And the Grand Inquest aforesaid, upon their oaths and affirmations aforesaid do further present, That the said [fol. 168] Edward Grygier afterwards, to wit: On the same day and year aforesaid, at the county aforesaid, and within the jurisdiction of this court, with force and arms, etc., the goods and chattels, moneys and property aforesaid by some ill-disposed person (to the Jurors aforesaid yet un-

known) then lately before feloniously and burglariously stolen, taken and carried away, unlawfully, unjustly and for the sake of wicked gain did receive and have (the said Edward Grygier then and there well knowing the goods and chattels, moneys and property last mentioned to have been feloniously and burglariously stolen, taken and carried away), contrary to the form of the act of the general assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

(Signed) John Monaghan, District Attorney.

——— ——, 192—. Recognizance of Defendant and surety forfeited.

Apr. 23, 1929 453.

[fol. 169] Witnesses: Walter E. Allen, 1815 Butler St.; Det Bradford, McDowell, Central, Milton Rose, 2954 Kensington Ave.

Bail, $—.

Costs, $ —.

Oswald, Magistrate.

COMMONWEALTH'S EXHIBIT NO. 4

HON. HORACE STERN

COURT OF OYER AND TERMINER, GENERAL JAIL DELIVERY AND QUARTER SESSIONS OF THE PEACE, FOR THE CITY AND COUNTY OF PHILADELPHIA

THE COMMONWEALTH OF PENNSYLVANIA

vs.

EDWARD GRYGIER

[fol. 170]. 16883.

BILL OF INDICTMENT

APRIL SESSIONS, 1929

No, 1107 Sur Charge of Burglary on Apr. 23, '29. Defendant Pleaded guilty. Convicted.

I Certify, that on the 23rd day of April A. D. 1929 the above-named defendant is adjudged by the Court to be

taken to the Pennsylvania Industrial Reformatory at Huntingdon, Pa., to be there confined in accordance with law made and provided, and to be there fed, clothed and in all respects treated as the law directs.

In Witness Whereof, I have hereunto set my hand and the Seal of said Court, this 23rd day of April A. D. 1929.

(Signed) John F. Flaherty, Pro Clerk.

COMMONWEALTH'S EXHIBIT No. 5

8-28-28-IM. Pennsylvania Industrial Reformatory

Huntingdon, Pa.

[fol. 171] Jas. W. Herron, General Superintendent

Parole Agreement

I, Edward Grygier, an inmate of the Pennsylvania Industrial Reformatory, hereby declare that I have carefully read, and do clearly understand the contents and conditions of the standard parole agreement which I have signed, and I hereby accept the same and do pledge myself to honestly comply with all the conditions named therein, as prescribed by the Board of Trustees at their meeting held Sep. 10, 1930 when my application for release of parole was favorably considered by them.

Dated at Huntingdon, Pa., this day of Sep. 20, 1930. 192.

Signed Edward J. Grygier, No. 16883.

Witness: J. B. Boring.

Date Sep. 19, 1930.

COMMONWEALTH'S EXHIBIT No. 6

No. 1679. E. November Sessions, 1930

COMMONWEALTH

vs.

[fol. 172] FRANK JACKSON alias Grygier

2248 Simon St. or 2027 Hart Lane

1st Count, Robbery.—Being armed with an offensive weapon.

2nd County, Assault.—Being armed with an offensive weapon with an intent to rob.

[3rd County, Robbery.—Together with other persons.

4th County, Assault.—Together with other persons with an intent to rob.

5th Count, Robbery.—And at commission thereof, beating, striking, and ill using.]*

True Bill. M. Longhead, Foreman. Nov. 26, 1930. 11/28/30. The Defendant being arraigned, pleads Eo. Die Guilty. Sent. to not less than 5 years nor more than 10 years. E. F. By the Court, J. Nov. 28, 1930, 453.

[fol. 173] Witnesses: Paul Grotzinger, 1000 E. Tioga St. Off. Shay 1573, 30th Dist. Bail, $——. C. Costs, $——. Lindell, Magistrate.

In the Court of Oyer and Terminer and General Jail Delivery of the County of Philadelphia, November Sessions, 1930

County of Philadelphia, ss:

The Grand Inquest of the Commonwealth of Pennsylvania, inquiring for the County of Philadelphia, upon their respective oaths and affirmations, do present, that Frank Jackson alias Grygier, late of the said County, yeoman, on the twenty-second day of November in the year of our Lord one thousand nine hundred and thirty at the County aforesaid, and within the jurisdiction of this Court, with force [fol. 174] and arms, etc., being armed with an offensive weapon and with an offensive instrument, in and upon one Paul Grotzinger feloniously did make an assault, and the said Paul Grotzinger in bodily fear and danger of his life, then and there feloniously did put, and from the person of one Paul Grotzinger, the sum of twenty-six dollars and fifty cents, in lawful money of the United States, of the value of twenty-six dollars and fifty cents, of the goods and chattels, moneys and property of the said Paul Grotzinger, then and there feloniously and violently did rob, seize, steal, take and carry away: contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

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* Struck out in copy.

And the Grand Inquest aforesaid, upon their oaths and affirmations aforesaid, do further present, that the said Frank Jackson alias Grygier, on the twenty-second day of November, in the year of our Lord one thousand nine hun- [fol. 175] dred and thirty, at the County aforesaid, and within the jurisdiction of the Court aforesaid, with force and arms, etc., being armed with an offensive weapon and with an offensive instrument, in and upon the said Paul Grotzinger feloniously did make an assault, with an intent, from the person of the said Paul Grotzinger, the sum of twenty-six dollars and fifty cents, in lawful money of the United States of the value of twenty-six dollars and fifty cents, of the goods and chattels, moneys and property of the said Paul Grotzinger then and there feloniously and violently to rob, seize, steal, take and carry away: contrary to the form of the Act of the General Assembly, in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

And the Grand Inquest aforesaid, upon their oaths and affirmations aforesaid, do further present, that the said —— —— on the —— day of —— in the year of our Lord one thousand nine hundred and —— at the County aforesaid, and within the jurisdiction of the Court aforesaid, with force and arms, etc., together with divers other persons, [fol. 176] whose names are to the said Grand Inquest as yet unknown, in and upon the said —— —— feloniously did make an assault, and the said —— —— in bodily fear and danger of — life, then and there feloniously did put, and —— —— of the value of —— of the goods and chattels, moneys and property of the said —— ——, then and there feloniously and violently did rob, seize, steal, take and carry away: contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

And the Grand Inquest aforesaid, upon their oaths and affirmations aforesaid, do further present, that the said —— —— on the —— day of —— in the year of our Lord one thousand nine hundred and —— at the County afore- [fol. 177] said, and within the jurisdiction of the Court aforesaid, with force and arms, etc., together with divers other persons whose names are to the said Grand Inquest as yet unknown, in and upon the said —— —— feloniously did make an assault, with an intent, —— —— of the value of —— and other of the goods and chattels, moneys and

property of the said —— —— then and there feloniously and violently to rob, seize, steal, take and carry away: contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

And the Grand Inquest aforesaid, upon their oaths and affirmations aforesaid, do further present, That the said —— on the —— day of —— in the year of our Lord one thousand nine hundred and —— at the County aforesaid, and within the jurisdiction of the Court aforesaid, with force and arms, etc., in and upon the said —— did make an assault and the said —— in bodily fear and danger of life, did [fol. 178] put, and of the value of —— of the goods and chattels, moneys and property of the said —— then and there feloniously and violently did rob, seize, steal, take and carry away, and that the said —— immediately before, and at the same time with and immediately after, the commission of the aforesaid felony and robbery, the said —— feloniously did beat, strike, ill use, and do other violence to: contrary to the form of the Act of the General Assembly in such case made and provided and against the peace and dignity of the Commonwealth of Pennsylvania.

(Signed) John Monaghan, District Attorney.

COMMONWEALTH'S EXHIBIT NO. 6-A, NOVEMBER SESSIONS, 1930

No. 1680

COMMONWEALTH,

vs.

[fol. 179] FRANK JACKSON alias GRYCIER

1st Count—Entering with Intent to Rob. Nov. 26, 1930. True Bill. M. Longhead, Foreman. 11/28/30. The Defendant being arraigned, plead Guilty. —— Dist. Atty. sim. et issue. Verdict, —. Sentence, on 1679.

Nov. 28, 1930. 453.

19—. Recognizance of Defendant and sure forfeited.

IN THE COURT OF QUARTER SESSIONS OF THE PEACE, OF THE COUNTY OF PHILADELPHIA, NOVEMBER SESSIONS, 1930

[fol. 180] COUNTY OF PHILADELPHIA, ss:

The Grand Inquest of the Commonwealth of Pennsylvania, inquiring for the County of Philadelphia, upon their respective oaths and affirmations, do present, That Frank Jackson alias Grygier, late of the said County, yeoman, on the twenty-second day of November in the year of our Lord one thousand nine hundred and thirty, at the County aforesaid, and within the jurisdiction of this Court, feloniously, wilfully and maliciously did enter the building and store there situate of Paul Grotzinger with an intent, the goods and chattels, moneys and property in the said building and store, from the person of Paul Grotzinger then and there being found, violently and feloniously to rob, seize, steal, take and carry away: contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

And the Inquest aforesaid, upon their oaths and affirmations aforesaid, do further present, That the said —— afterwards, to wit: on the same day and year aforesaid, at the County aforesaid, and within the jurisdiction of this Court, altogether of the value of the goods and chattels, moneys and property of —— then and there being found, then and there feloniously did steal, take and carry away: contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

[fol. 181]

And the Inquest aforesaid, upon their oaths and affirmations aforesaid, do further present, That the said —— afterwards, to wit: On the same day and year aforesaid, at the County aforesaid, and within the jurisdiction of this Court, the goods and chattels, moneys and properties aforesaid, by some ill-disposed person (to the Jurors aforesaid yet unknown) then lately before feloniously stolen, taken and carried away, feloniously, unjustly and for the sake of wicked gain did receive and have, the said —— then and there well knowing the goods and chattels, moneys and properties last mentioned, to have been feloniously stolen, taken and carried away: contrary to the form of the

[fol. 182]

Act of General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

—— ——, District Attorney.

Witnesses: Paul Grotzinger, 1000 E. Tioga St., Off. Shay, 1573. 30th Dist. Bail, & —. Cost, & —. Lindell, Magistrate.

Commonwealth's Exhibit No. 7. No. 1046. E. [1076]* [fol. 183] [1076]* April Sessions, 1937. Commonwealth vs. Edward Grygier alias Frank Jackson alias Joseph McGee, 477 Green St., Brooklyn, N. Y. Burglary. Entering in the Night, without Breaking, with intent to commit a Felony. Receiving Stolen Goods. April 26, 1937. True Bill. (Signed) Edw. G. Soch, Jr., Foreman. 4/28/37. The Defendant being arraigned, plead Guilty 3rd commit. Dist. Atty. sim. et issue. Verdict. Eo Die. Sentence, 18 mos. to 3 years E. P. at expiration of unexpired Parole. Sentence imposed 11/28/30 on bill 1679 of November 1930. (Signed) by the [fol. 184] Court, J. Apr. 28, 1937, 453. 19. Recognizance of Defendant and suret forfeited. Witnesses: Off. Davis 2868, Peterson 4246, 24th Dist. Det. McCourt 94, Lennon 170, Burke 142, 3rd Det. Div. Sarah O'Neill, Edward O'Neill, 7406 Briar Rd. Bail, $——. C. Cost, $——. Holland, Magistrate.

In the Court of Oyer and Terminer of the County of [fol. 185] Philadelphia, April Sessions, 1937

County of Philadelphia, ss:

The Grand Inquest of the Commonwealth of Pennsylvania, inquiring for the County of Philadelphia, upon their respective oaths and affirmations, do present, That Edward Grygier alias Frank Jackson alias Joseph McGee late of the said County, yeoman, on the sixteenth day of April in the year of our Lord one thousand nine hundred and thirty-seven about the hour of eleven in the night of the same day, at the county aforesaid, and within the jurisdic-

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* Struck out in copy.

tion of this court, with force and arms, etc., the building and dwelling house then and there situate of Edward O'Neill unlawfully, wilfully, maliciously, feloniously and burglariously did break and enter, with intent the goods and chattels, moneys and property of him the said Edward O'Neill in the said building and dwelling house then and there being, feloniously and burglariously to steal, take and carry away; and then and there in the said building and dwelling house, certain property, to wit, one silver table set, of the value of one hundred and twenty-five dollars; [fol. 186] and four men's rings, one lady's watch, one lady's ring, six fraternal charms, one revolver, one vacuum cleaner and one man's hat, together of the value of one hundred and twenty-five dollars; altogether of the value of two hundred and fifty dollars, of the goods and chattels, moneys and property of him the said Edward O'Neill in the said building and dwelling house then and there being found, feloniously and burglariously did steal, take and carry away, contrary to the form of the act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

And the Grand Inquest aforesaid, upon their oaths and affirmations aforesaid, do further present, That the said Edward Grigier alias Frank Jackson alias Joseph McGee, on the day and year aforesaid, at the County aforesaid, and within the jurisdiction of this Court, with force and arms, etc., did about the hour of eleven in the night of the [fol. 187] same day, unlawfully, wilfully, maliciously and feloniously enter the building and dwelling house of him the said Edward O'Neill then and there situate, without breaking the same, with intent then and there the goods and chattels, moneys and property of him the said Edward O'Neill to feloniously steal, take and carry away contrary to the form of the act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

And the Grand Inquest aforesaid, upon their oaths and affirmations aforesaid, do further present, That the said Edward Grygier alias Frank Jackson alias Joseph McGee [fol. 188] afterwards, to wit: On the same day and year aforesaid, at the county aforesaid, and within the jurisdiction of this court, with force and arms, etc., the goods and chattels, moneys and property aforesaid by some ill-disposed person (to the Jurors aforesaid yet unknown) then

lately before feloniously and burglariously stolen, taken and carried away, unlawfully, unjustly and for the sake of wicked gain did receive and have (the said Edward Grygier alias Frank Jackson alias Joseph McGee then and there well knowing the goods and chattels, moneys and property last mentioned to have been feloniously and burglariously stolen, taken and carried away), contrary to the form of the act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

(Signed) Charles F. Kelley, District Attorney.

[fol. 189] Commonwealth's Exhibit No. 8. No. 1047. E. April Sessions, 1937. Commonwealth vs. Edward Grygier alias Frank Jackson alias Joseph McGee, 477 Green St., Brooklyn, N. Y. Carrying concealed deadly weapon. Unlawfully carrying firearm without a license. April 26, 1937. True Bill. Edward G. Soch, Jr., Foreman. 4/28/37. The Defendant being arraigned, plead Guilty. Dist. Atty. sim. et issue. Verdict. Eo Die. Sentence on 1046. Witnesses: [fol. 190] Off. Davis 2868, Peterson 4246, 24th Dist. Det. McCourt 94, Lennon 170, Burke 142, 3rd Det. Div. Sarah O'Neill, Edw. O'Neill, 7406 Briar Rd. Bail, $——. C. Costs, $——. Holland, Magistrate. Apr. 28, 1937, 453.

In the Court of Quarter Sessions of the Peace, of the County of Philadelphia, April Sessions, 1937

County of Philadelphia, ss:

The Grand Inquest of the Commonwealth of Pennsylvania, inquiring for the County of Philadelphia, upon their [fol. 191] respective oaths and affirmations, do present, That Edward Grygier alias Frank Jackson alias Joseph McGee late of the said County, yeoman, on the sixteenth day of April in the year of our Lord one thousand nine hundred and thirty seven, at the County aforesaid, and within the jurisdiction of this Court, did unlawfully carry concealed upon his person a certain deadly weapon, commonly called a revolver, said revolver being then and there loaded with powder and bullet with the intent therewith unlawfully and maliciously to do injury to some other person to

the Grand Inquest aforesaid as yet unknown: contrary to the form of the act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

And the Grand Inquest aforesaid, upon their oaths and affirmations aforesaid, do further present, that the said Edward Grygier alias Frank Jackson alias Joseph McGee on the said sixteenth day of April, in the year of our Lord [fol. 192] one thousand nine hundred and thirty-seven, at the county aforesaid, and within the jurisdiction of this Court, did unlawfully carry, in a place not his abode nor his fixed place of business, to wit, on or about the person of him the said Edward Grygier alias Frank Jackson alias Joseph McGee a firearm, to wit, a revolver with a barrel less than twelve inches, without a license therefor as required by law; said firearm not being an antique unsuitable for use and not possessed as a curiosity or ornament: contrary to the form of the Act of the General Assembly in such case made and provided and against the peace and dignity of the Commonwealth of Pennsylvania.

(Signed) Charles F. Kelley, District Attorney.

[fol. 193] EXHIBIT

Department of Public Safety, Bureau of Police,

Philadelphia

Prisoner's Criminal Record

Name: Edward Grygieo, 3909 Glendale St., white-17 in 1928; 101 Warrick Settlement, Pottstown, Pa.

Alias: Francis Geyger, Edward Grygier, Frank Jackson, Joseph McGee.

Name of Complainant and Address: —— ——.

Name and Number of Officer making arrest: —— ——.

Number of Photograph: 80089.

Criminal Vocation: ——.

Criminal Record (as far as known):

1927. Burglary. Sent. 1 year Md. House of Corr. Discharged 1-17-28.

4-3-28. Phila. C. C. D. W. (revolver) and A. and B. on Officer. Court-Indicted 4-1928 on bills 671-672 Ct. R. 453

on 4-17-28 Pl. Guilty both bills and sent. to One yr. Co. Prison on bill 671 by Judge Frank Smith. 12-10-28 Discharged Act 1911, Judge F. Smith.

4-17-29. Phila. Burglary. W. O. B. court-Indicted 4-1929 on bill 1107 Ct. R. 453 on 4-23-29 Guilty sent. to Huntingdon Refty. by Judge Stern. 9-20-30 Paroled.

11-21-30. Phila. Robbery by holdup at point of gun and larceny of $50.00 in cash. W. O. B. court-Indicted 11-1930 on bills 1679-1680 Ct. R. 453 on 11-28-30 Pl. G. Sent. to 5 to 10 yrs. on bill 1679 in Eastern Penty. by Judge Heiligman. Rel. 5-28-36.

4-15-37. Phila. Burglary-Violation of Witkin Firearm Act. W. O. B. court-Indicted 4-1937 on bills 1046-1047 Ct. R. 453 on 4-28-37-Pl. guilty RSG. on bill 1046-Pl. G. Bill 1947. Sent. to 18 mos. to 3 yrs. Eastern Penty. at exp. unexpired parole on bill 1679 of 11-1930. Judge MacNeille. Re-Entered 10-28-41 as D-6085. Paroled 4-29-43.

[fol. 193a] Name: Edward Grygieo.

Alias: —— ——.

Name of Complainant and Address: —— ——.

Name and Number of Officer making arrest: —— ——.

Number of Photograph: 80089.

Criminal Vocation: ——.

Criminal Record (as far as known):

6-15-43. Pottstown, Pa. Agg. A. & B. and Burglary. $1500, court-Indicted 6-1943 on bills 461-462 Ct. R. 453 on 2-25-44 Guilty, sent. 5 to 10 yrs. on Bill 461 after expir. sent. on B. 1046 of 4-1937 and Bill 251-252 of 7-1937 and Bill 144 of 11-1943 in Eastern Penty. by Judge McDevitt. 11-27-44 Bill 461 Plead guilty. Sent. to Life Imprisonment as 4th Offender. Judge Joseph L. Kun, R. 453.

7-7-43. Phila. Burglary. W. O. B. court-Indicted 7-1943 on bills 251-252 in Ct. R. 653 on 7-26-43. Plead guilty RSG and sent. to 5 to 10 yrs. Eastern Penty. from 7-9-43 by Judge McDevitt.

1-23-44. Escaped from cell in New Eastern Penty., Graterford, Pa. 1-24-44 retd. to Cell. Indicted 11-1943 on Bill 144 in Montg. Co. Court 1-28-44-Pl. Guilty and sent. to 1 to 2 yrs. from expir. sent. now serving. Judge Geo. R. Corson. 2-4-44 sent. changed to begin at expir. of parole time now being served, at exp. of 5 to 10 yrs. service, then sent. on Bill 144 of 11-1943 will begin. 11-28-44 re-entered as D-8017 to serve sentence imposed 11-27-44 in Phila. by Judge Kun.

Reg. 5-28-36.

[fol. 194] SUPREME COURT OF THE UNITED STATES, OCTOBER TERM, 1947

No. 53, Misc.

FRANCIS JOSEPH GRYGER, Petitioner,

vs.

C. J. BURKE, Warden

ORDER GRANTING CERTIORARI—January 19, 1948

On petition for writ of Certiorari to the Supreme Court of the Commonwealth of Pennsylvania.

On consideration of the motion for leave to proceed herein *in forma pauperis* and of the petition for writ of certiorari, it is ordered by this Court that the motion to proceed *in forma pauperis* be, and the same is hereby, granted; and that the petition for writ of certiorari be, and the same is hereby, granted and the case is ordered transferred to the appellate docket.